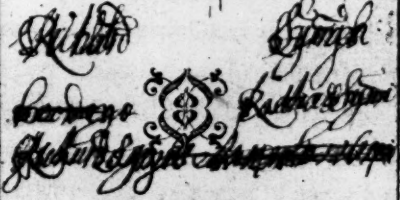
THE LAWIERS LOgike, exemplifying the *præcepts of* Logike *by* the practise of the common Lawe, by

Abraham Fraunce.



AT LONDON,
Imprinted by William How, for Thomas Gubbin, and T. Newman.

1588.

BC151
F84
Rare Bk. Room

To the Right honorable, Henry Earle of *Pembrooke, Lord Herbert of Cardyffe,* Marmyon, and S. Quynten, Lorde Præsident of the principality of Wales, and the Marches of *the same, Knight of the most noble order of* the Garter, and Lord Liuetenant of Wales, of the Marches, and of the counties of Wylt. and Somerset.

252457

IF Lawes by reason framed were, and grounded on the same;
If Logike also reason bee, and thereof had this name;
I see no reason, why that Law and Logike should not bee
The neareſt and the deareſt freends, and therfore beſt agree.
As for the fonde conceyt of ſuch which neuer knew them both,
Better beleeue ſome mens bare worde, than their ſuſpected oth.
I ſay no more then what I ſaw, I ſaw that which I ſought,
I ſought for Logike in our Law, and found it as I thought.
If all that I haue ſought and found your Honor doe content,
(Let ſcribes and pety penmen talke) I thinck my time well ſpent,
And labour herein well imployd: Acceptance is my meede,
I craue no more, I haue no leſſe, if you vouchſafe to reede.

Your Honors

moſt vnfainedly affectionate

Abraham Fraunce.

TO THE LEARNED *Lawyers of England, especially* the Gentlemen of *Grays Inne.*

Here bee almoſt ſeauen yeares now ouergone mee, ſince firſt I began to be a medler with theſe Logicall meditations: And whileſt I haue ſaid and vnſaid, doone and vndoone, and now doone all a new, mee thinkes theſe ſeauen yeares haue quickly ouergone mee. I firſt began, (when I firſt came in preſence of that right noble and moſt renowmed knight ſir Philip Sydney) with a generall diſcourſe concerning the right vſe of Logike, and a contracted compariſon betweene this of Ramus and that of Ariſtotle. Theſe ſmall and trifling beginnings drewe both him to a greater liking of, and my ſelfe to a further trauayling in, the eaſie explication of Ramus his Logike.

Sixe tymes in theaſe ſeauen yeares haue I peruſed the whole, & by a more diligent ouerſeeing corrected ſome ouerſights: thriſe at S. Iohns colledge in Cambridge, thriſe at Grays Inne, ſince I came to London. This laſt alteration hath chaunged the name of the Booke, & this new name of the Booke proceeded from the chaunge of my profeſsion. For hauing reſolutely determined to

acquaint my ſelfe with our Engliſh laws & conſtitutiõs, I thought good to make tryall, whether my eight yeares labour at Cambridge, would any thing profit mee at an Inne of Court, wheather Law were without Logike, or Logike not able to helpe a Lawyer. VVhich when I prooued, I then perceaued, the practiſe of Law to bee the vſe of Logike, and the methode of Logike to lighten the Lawe. So that after application of Logike to Lawe, and examination of Lawe by Logike, I made playne the precepts of the one by the practiſe of the other, and called my booke, The Lawyers Logike; not as though Logike were tyed onely vnto Law, but for that our Law is moſt fit to expreſſe the præcepts of Logike. Yet, becauſe many loue Logike, that neuer learne Lawe, I haue reteyned thoſe ould examples of the new Shepheards Kalender, which I firſt gathered, and therevnto added theaſe alſo out of our Law bookes, which I lately collected.

I doubt not, but that ſome welwillers, and many malitiouſly diſpoſed cauyllers will as much reprehend this ſtraunge coniunction of Lawe and Logike, as they did meruayle at my ſodayne departure from Philoſophy to Lawe. To thoſe that meane well, and ſpeake according to their meaning, I wiſh no woorſe vſe of Logike than may be had in Lawe. For the reſt, which make proclamations without authoritie, and exclamations with greater indignation than diſcretion, I leaue them to their ſtandiſh, and pray for their good ſucceſſe, that after the tearme of ſeauen yeares fully compleate and ended, they may bee in their blewe veluet night-caps ſolempnly called to the Barre for their extraordinary skill in making of obligations.

Tully, at the earneſt requeſt of Trebatius, a towardly

Lawyer,

Lawyer of Rome, hath eloquently put downe the firſt part of Logike in his Topikes, to the præcepts whereof hee applyeth Law-like examples, for the better inſtruction of Trebatius and helpe of other Lawyers. Seruius Sulpitius, as the ſame Tully reporteth, became the moſt excellent Lawyer in all Rome, and that onely by the helpe and direction of Logike: inſomuch that he onely, by theaſe meanes, was ſaid to haue the art & knowledge of the Lawe, whereas the reſt had nothing but the practiſe of the ſame, by continuall beating of their braynes about endles controuerſies. Hee knew what was Law, & what was the reaſon of Law; they like good Catholikes and modeſt minded men, beleeued as the Church beleeued, but why the church beleeued ſo, it neuer came within the compaſſe of their cogitation.

But all this notwithſtanding, it cannot bee, ſayde one great Tenuriſt, that a good Scholler ſhould euer prooue good Lawyer. God forbid, good ſir, you offer your ſelfe tootoomuch iniury: for wee, countreymen, take your woorſhip for a greate wiſe learned man, and I doubt not but that your ſelfe are well perſwaded of your woondrous knowledge in the Lawe, and yet you ſay, that Lawe and Logike can neuer ſtande togeather, Tis great pity, God wot, that theaſe two excellent qualities can neuer bee reconciled. Alas; what ſhould ayle them, if it like your good Mayſterſhip? Mary, quoth hee, theaſe fine Vniuerſity men haue beene trained vp in ſuch eaſie, elegant, conceipted, nice, and delicate learning, that they can better make new-found verſes of Amyntas death, and popular diſcourſes of Enſignes, Armory, Emblemes, Hieroglyphikes, and Italian Impreſes, than apply their heads to the ſtudy of the Law, which is

hard, harſh, vnpleaſant, vnſauory, rude and barbarous. VVell ſaid good Iohn a ſtyle.

Dij te, Damaſippe, deæque
Verum ob iudicium, donent tonſore; ſed vnde
Tam benè nos noſti?

For my ſelfe, I muſt needes confeſſe I was an Vniuerſitie man eight yeares togeather, and for euery day of theſe eight yeares, I do not repent that I was an Vniuerſitie man. But for that delicacie of ſtudie whereof you dreame, becauſe it ſeemeth ſomewhat ſtraunge, a worde or two, before wee go further. Surely ſir, by your patience be it ſpoken, it ſeemeth you came abruptly from a countrey ſchoole to an Inne of court, or els riding poaſt towards London, you chaunged horſe at the Vniuerſitie, and comming thither late in the euening, and riding away early in the morning, ſaw nothing but by candell light. It was incident to my nature (as I thinke) to bee caried away with as delicate and pleaſant a kinde of learning, as any of my time in Cambridge. VVhich (notwithſtanding an ineſtimable delectation that drowned the paines of ſtudie) did yet ſo racke my raunging head, and bring low my craſed body, that I felt at laſt when it was too late, the perpetuall vexation of Spirite, and continuall conſumption of body, incident to euery ſcholler.

And if the moſt eaſie conceipts in Vniuerſities be ſo hard, the moſt delicate ſtudies ſo full of toyle, how troubleſome then and painefull the foundation of arts, the framing of an Engliſh tongue to vnknowen languages, muſt in any caſe bee, I leaue to be iudged of them, who can diſcerne betweene a ſuperficiall apparance and true ſubſtance, betweene the brauery of a Midſommers Comencement,

mencement, and the ſeauen yeares paynes of a Maiſter of arts.

Now for the ſtudy of the law, which, by theſe lawmens report, is ſo hard, ſo vnſauory, ſo rude, and ſo barbarous, ſhee may well pronounce of her profeſſors, as Horace of his gueſtes.

Tres mihi conuiuæ propè diſſentire videntur,
Poſcentes vario multum diuerſa palato.
Quid dem? quid non dem? renuis tu, quod iubet alter,
Quod petis, id certè eſt inuiſum acidumque duobus.

For the hardenes and difficulty, I ſay nomore, but τὰ κάλα χάλεπα: and if Philoſophy be harde, and law be harde, *Iam ſumus ergò pares*. In deede the want of teachers and good diſcipline which is in Vniuerſities, makes law ſeeme harde, and Philoſophy very eaſie, which, if either we had, or they had not, no doubt, law would ſooner be learned in ſeauen yeares, then ſeauen arts in one & twenty. But the law is vnſauory, ſaith an other: But the fault is in your corrupt taſt, ſay I, not in the nature of the thing, which vnto the wiſeſt is moſt acceptable, vnleſſe you play the part of Philoxenus, and vnder pretence of abhorring the loathſome ſauour of the law, intend the deuouring of all profites proceeding from the law, whiche ſeemeth indeede to be the ſcope you ayme at. You would loue the law but *ſine riuali*: you would raigne, but alone: *Hinc illæ lachrymæ*. For otherwiſe I can hardly thinke ſo hardly of you, as to meaſure your diſcretion by the vnprobable aſſertion cõpriſed in your two laſt Epithetes, wherein you diſgrace the law with rudeneſſe and barbariſme. For, as for that Hotchpot French, ſtufft vp with ſuch variety of borowed words, wherein our law is written, if this be all the Dunſicalitie

you talke of, you are farre more nyce then any Vniuerſitie man of mine acquaintance. I know by experience, there is no word ſo outworne, no ſpeach ſo vaſt and gaping in Brytton, Bracton, Glanuyll, Lytleton, Parkins, and the reſt of our Law autors and reporters of the law, as is in Bricot, Burley, Bonauenture, Duns, Durand, D'orbell, Aquinas, Andreas, Albertus, and a farre more infinite number of thoſe Moonkiſh cloyſterers deuoured of Schollers, than bee of theaſe others peruſed by Lawyers. And yet, notwithſtanding all their Perſeities, Formalities, Quiddities, Hæcceities, Albedinities, Animalities, Subſtantialities, and ſuch like, hee that would not gather gould out of Aquinas dregges, as Virgill did out of Ennius, I ſhall thinke him as wiſe, as ſome ſeelly Pettyfogger, who rather than hee would trouble his conſcience with Feetayle and Feeſimple, will lyue like a ſimple foole, and neuer take fee.

VVhether it bee malice therefore and enuy, or ignorance and ſimplicitie, that cauſeth you to wrangle and chatte ſo vndiſcreatly, you may ſee how you doo erre by the one, and are deceaued by the other. For neyther are Vniuerſity men ſo daynty, as to looſe their dinner becauſe the Cooke had not on his holiday apron, neither is the Law more vnſweete, than other learning vnſauory, whatſoeuer you caſt out to the contrary.

But the Law is in vaſte volumes confuſedly ſcattered and vtterly vndigeſted: ſo was all other learning not long agoe: yet herein blame not the Law, if it bee datke, but Lawyers themſelues that had no light: blame not the Lawe, I ſay, which was out of order, but Lawyers themſelues that neuer knewe Methode: Nay, blame neyther Lawe, nor auncient Lawyers, who by reaſon

of

of the generall misery of their obscure age, could not see euery thinge, but exclayme against your selues, who in this flourishing time and blessed opportunity, will see nothing. If those auncient fathers of our Lawe had lyued now, all had beene well, but if you had beene extant then, all had beene woorse. For neyther can you doo what you should, nor will let others doo what they would for the more orderly explication of the Lawe. Such is the vntowardly disposition of this scornefull age of ours, wherein no man prayseth any more, then hee thinketh himselfe able to performe, but seeketh to cloke his owne ignoraunce by deriding other mens skill, beeing himselfe so simple in other mens iudgement, and wise in his owne conceipt, that when hee hath spoken without measure to a dooſen of poynts, all is not worth a penywoorth of pinnes: for neyther himselfe can well vnderstand his vnioynted discourse, nor the hearers conceaue his vncohærent iangling.

But I feare mee, I haue mooued their patience, whom I most desire to bee patient, and to suffer without grudging Schollers to bee Lawyers, as they wish some Lawyers to become better Schollers. VVhich if it were so, then would there not bee so many vpstart *Rabulæ Forenses*, which vnder a prætence of Lawe, become altogeather lawlesse, to the continuall molestation of ignoraunt men, and generall ouercharging of the countrey, with an ouerflowing multitude of seditious cauyllers: who, when their fathers haue made some lewde bargayne in the countrey, run immediatly to the Innes of Court, and hauing in seauen yeares space met with six French woordes, home they ryde lyke braue Magnificoes, and dashe their poore neighboures children quyte out

of

of countenance, with Villen in gros, Villen regardant, and Tenant per le curteſie: much like the ſwarming rable of our coyſtrell curates, which when their fathers haue either compounded with their Landlord for ſome pelting vicaredge, or payd ready money for a better parſonage, conuey themſelues to Cambridge or Oxford, where hauing once knowen the price of an Admiſsion, Salting, and Matriculation, with the intertayning of Freſhmenne in the Rhetorike ſchooles, they returne whence they came, with their mothers wit and fathers learning carefully kept togeather, that when they haue wearied menne with reading ſkarce true Engliſh on the Sonday, all the weeke after they may plague poore boyes with falſe Latine in a belfraye. Or elſe, if the ould Parſon be not yet dead, they ſtaye a little longer, and vnder a preciſe cloake of Diuinitie, (notwithſtanding they bee Arch-aſſes in all humanitie) creepe in among Batchlers of artes with croſſe caps on their groſſe pates, and ſheepes ſkinnes caſt ouer their lubberlike ſhoulders, whereof they are more prowde then euer was any foole of his bell and bauble: then come they home to ring their belles, to the vtter diſgrace of the Vniuerſities, the perpetuall plague of the Countrey, and euerlaſting ſhame of the corrupted Clergie.

Yet I heare ſay, that ſome great lawyers haue had litle learning, and ſome good churchmen haue beene no great clearkes: VVherevnto I anſwere, that it were but follie to contemne ordinarie meanes, becauſe ſome men haue extraordinarie gyftes, and if thoſe rare qualities of nature had beene directed by precepts of art, I thinke they had proued much more excellent.

But to returne thither from whence I came, and to make

make an ende with that wherewith I began, thus much I dare bee bould to affirme, notwithſtanding the præiudicate conceipt of twenty Ciuilians, and as many common Lawyers to the contrary, that if the Ciuyll law bee elegant and delectable, the Common lawe is neyther barbarous nor vnſauory. For the volumes, theyrs bee farre greater, and much more infinite. For the ſtyle, it is more eaſily determined that both bee bad, then which is better: and yet both Bartolus his Latine, and Brytton his French, in ſome mens iudgement is therefore ſufficiently elegant, becauſe it is fully ſignificant. For the matter, all is Lawe, although not all one Lawe: and hee that lyketh the one, let him leaue the other, or ioyne them both togeather, if his leyſure bee ſo good, and his ability correſpondent.

It is not my meaning to diſgrace the one, or aduance the other in compariſon wiſe, by ſuperlatiue woordes, and hyperbolicall amplifications: I haue yenough if I haue this graunted, that our Common lawe is as eaſie, as ſhort, as elegant, and as delightſome as is the Cyuill, which euery man extolleth, and I am well content, as long as I ſee theſe twoo thinges in credite with other men, wherevnto I haue already betaken my ſelfe. For, as for Forteſcues comparing of them both togeather and præferring of ours, it maketh all with mee, yet I vrge not all: albeit I thinke, as by office hee was a Iudge in Court of conſcience, ſo in this Treatiſe hee dealt not *ſummo iure*, with the Cyuilians, but reaſonably and with ἐπιεικεια.

But the Cyuill lawe will ſome man ſay, is both in it ſelfe more conſtant and philoſophicall, and alſo by Iuſtinian more methodically, and by later wryters more

eloquently put downe.

I ſayde before my meaning was not to enter into any needles diſcourſe of compariſon betweene theaſe twoo lawes, yet becauſe theaſe bee obiections of latter tyme, I muſt præſume a lyttle further. And firſt, for the conſtancy and philoſophicall foundation of the Romayne Lawe, which Iuſtinian calleth the Cyuill law κατ' ἐξοχήν, (as Homer is called the Poet) the name, Cyuill, beeing common to the ſeueral lawes of any peculiar kingdome: no doubt, this obiection was made by them, that heard ſomewhat at the Vniuerſity of the Cyuill lawe, but neuer read any thing of our Common lawe. They haue *Plebiſcita*, *Senatus conſulta*, *Principum placita*, *Magiſtratuum edicta*, *Reſponſa prudentum*: VVee haue ruled Caſes, Maximaes and Principles, Cuſtomes and Vſages both generall and ſpeciall; and laſtly, continuall reformation of newe abuſes by Statutes and Actes of Parlament. Now let any one skilfull in both, iudge of the reaſon and certeinty of eyther, and remember withall, what Ariſtotle ſayth of the imperfection of all Lawes, leaſt hee impute that as a ſpeciall blemiſhe to our Lawe, which is a generall want incident to the nature of cuerie Lawe.

There is no Law-maker ſo prouident, as that hee can in particularity foreſee, and, as it were, by ſome propheticall ſpyrite fore-tell and præuent the infinite variety of future inconueniences, by application of ſo many peculiar prouiſoes, and ſpeciall conſtitutions, but muſt of neceſsity leaue his Lawe generall, referring the addition, detraction, or mitigation of woordes, vnto the conſcience and diſcretion of the learned

learned and vnderſtanding Iudge. Thus much would I haue remembred, and then let that Lawe bee accuſed as leaſt ſufficient which is moſt generall, and therefore not ſo well able to præuent imminent myſchiefes.

For, as for the methode of Iuſtinian, it doth not ſo well content the Ciuilians, but that they dayly contend with newe innouations and continuall printing of freſhe methodes, to bring it vnto better order. Yet if it bee ſuch, as ſome ſay it is, then I ſay, wee haue our Common lawe penned after the ſelfe ſame methode twoo hundreth yeares agoe, by that famous and learned Iudge Henry de Bracton, skilfull in both theaſe Lawes. And if it bee not Iuſtinians order that theaſe men fancy, but rather the late Abridgements of finer heades, let them not then with reuyling ſpeaches diſcourage them, which hope to ſee the Common lawe of England brought to as good and eaſie a methode, as euer was any.

For the ſtyle of theaſe late Cyuilians, whiche is ſomewhat more laboured and leſſe vnſeemely then that of their forefathers, wee maye as iuſtly ſay that there is the lyke diuerſitie to bee manifeſtly perceaued betweene the homely ſpeach of oure auncient Lawyers, and the finer phraſe of late wryters in our Common lawe. VVoordes are lyke leaues, as Horace reporteth: leaues ſpring before Summer, and fall before VVinter; and the ſame inconſtancy is in words. Let vs therefore vſe that phraſe whiche is moſt vſuall: and though in knowledge and conceipt wee contend to bee ſingular, yet in vttering our thoughtes, let all bee made partakers.

But loe, I ſee on the ſodayne this extrauagant diſcourſe abruptly cut off by the importunate exclamations of a raging and fireyfaced Ariſtotelean; who ſeeing Ramus his Logike in ſome eſtimation, maketh ſmall accoumpt of his owne credite in vttering ſuch impatient ſpeaches.

Good God, what a world is this? VVhat an age doe wee now lyue in? A Sopiſter in tymes paſt was a tytle of credite, and a woord of commendation; nowe what more odious? Ariſtotle then the father of Philoſophy; now who leſſe fauoured? Ramus rules abroade, Ramus at home, and who but Ramus? Antiquity is nothing but Dunſicality, & our forefathers inuentions vnprofitable trumpery. Newfangled, youngheaded, harebrayne boyes will needes bee Mayſters that neuer were Schollers; prate of methode, who neuer knew order; rayle againſt Ariſtotle aſſoone as they are crept out of the ſhell. Hereby it comes to paſſe that euery Cobler can cogge a Syllogiſme, euery Carter crake of Propoſitions. Hereby is Logike prophaned, and lyeth proſtitute, remooued out of her Sanctuary, robbed of her honour, left of her louers, rauyſhed of ſtraungers, and made common to all, which before was proper to Schoolemen, and only conſecrated to Philoſophers.

I haue heard the lyke ſpeaches to theaſe before this, and I looke for no better hereafter: I neuer eſteemed of thoſe, and I litle care for theaſe. Yet, good mayſter Quidditary, if you had beene as diligent in meditation of the cauſe, as you haue beene ouer earneſt in admiration of the effect, the knowledge of the one would haue remoued the ſtraungenes of the other. For, if the wiſedome of the auncient *Sophi* bee nowe degenerate into the ydle

ſubtleties

ſubtleties of the new-found *Sophiſtæ*, what meruayle is it, if when the thing is not aunſwering to the name, the name become odious?

Ramus doth not ſo rule, but that he can ſuffer reaſon to ouer rule him. Ould doating graybeards talke much of Baralipton, whileſt youngheaded boyes beare away Logike. They thinke much that a boy ſhould conceaue that in a weeke, which they could skarce perceaue in a yeare: but more, that their ould learning ſhould bee corrected by newe teaching, and their labour loſt with ſo little profiting.

Coblers bee men, why therefore not Logicians? and Carters haue reaſon, why therefore not Logike? *Bonum, quò communius, eo melius,* you ſay ſo your ſelues, and yet the beſt thing in Logike you make to be the woorſt, in thinking it leſſe commendable, becauſe it is more common. A ſpytefull ſpeach, and a meaning no leſſe malitious, to locke vp Logike in ſecreate corners, who, as of her ſelfe ſhee is generally good to all, ſo will ſhee particularly bee bound to none. Touching the gryefe you conceaue for the contempt of Ariſtotle, it is needles and vnneceſſary: for, where Ariſtotle deſerueth prayſe, who more commendeth him then Ramus? VVhere he hath toomuch, Ramus cutteth off, where too little, addeth, where any thing is inuerted, hee bringeth it to his owne proper place, and that according to the direction of Ariſtotle his rules. Then, whereas there can bee no Art both inuented and perfected by the ſame man, if Ariſtotle did inuent Logike, as hee perſwadeth you, hee did not perfect it, if hee did not finiſh it, there is ſome imperfection, if there bee any want, why then allow you all?

But alas, ſee how farre I haue ouerſhot my marke: tis more then time to make an ende of this raunging digreſsion. I ende therefore, yet with an endleſſe deſire, that no leſſe profite may bee perceaued by others in practiſing, then I had pleaſure in peruſing this laſt explication of Ramus his Logike.

Abraham Fraunce.

Faultes eſcaped.

PAg: 6, a: line, 3: after κεφαλὴ reade, of χριστ: Pag: 12, b, line, 11: for pius, read, puis: Pag: 15. a: line, 23: for deius, read, deins: Pag: 19: b: line, laſt but two, for, o, read, ou: Pag: 26, b: line, laſt but 4: for miguarde, read mignarde: Pag: 39: a: line, laſt but 8: for eſſigne, read, aſſigne: Pag: 40: a: line, 2: for reddit reade, redit: Pag: 45: a: line, laſt but 6: for le, read, de: Pag: 48: a: line, 10: for his, read, her, and line, 11: for her, read his: Pag: 56: b: the firſt foure lines of the 13 chapter be out of their proper place a litle: Pag: 61: a: line, 21: for Britton, 17: read, Britton 17: & elſe where: Pag: 62: b: line, laſt but foure, for poſſuit read, poſuit: Pag: 73: a: line, laſt but one, for canſe, reade, cauſe: Pag: 86: b: line, laſt: for meus, read, mens: Pag: 99: b: line, laſt but one, for the word that is blotted out, reade, a plague, a torment: Pag: 108: a: line, 19: for n'eſt, read, eſt: Pag: 110: a: line, 13: for there, read, then: Pag: 113, a: line, laſt but two, for, and ſyllogiſme, read, and a ſyllogiſme. Pag: 113: b: line, 21: for, the, read, this. Pag: 119: a: line, laſt but two, for learnings, read, learning. Pag: 122: b: line, 8: for, appeareth: read, apeareth. Pag: 128: a: line, laſt but fiue, for, les, reade, leaſe. Pag: 129. b: line, 17: for de, read, le. Pag. 137. a: line, laſt, for 4. 4. 4. reade, 7. 7. 7.

Some other faultes there bee: but theaſe be the greateſt.

THE FIRST CHAPTER OF THE FIRST BOOKE.

What Logike is.

Logike is an Art of Reasoning.

Annotations.

ALthough this woord, *Logike*, bée generally receaued of Englishmen, and vsed euen of them that know no Logike at all, yet for that it was a stranger at the first, I thinke it not impertinent to sèeke from whence it came, and what it doth betoken: λόγος therefore in Greeke signifieth Reason, of λόγος is deriued this woord, λογικὸς that is to say, Reasonable, or belonging to Reason, which although it bée an adiectiue, and must haue some such like woord, as Arte, Science, or Facultie, to be adioyned vnto it as his substantiue, yet is it substantiuely taken and vsed in Latine, as also in our English tongue.

Sturmius and some others, derine this woord Logike from λόγος as λόγος betokeneth speech or talke: whose opinion, although the other name of this Art (which is διαλεκτικὴ, of διαλέγεσθαι, to speak or talke) doe in some respect sèeme to confirme, yet for that the whole force and vertue of Logike consisteth in reasoning, not in talking: and because reasoning may be without talking, as in solitary meditations and deliberations with a mans selfe, some holde the first derination as most significant.

Dialectica & Logica, saith *Hotoman*, dictæ sunt a sermone siue oratione, sed illa propriè ab eo genere sermonis, qui cùm altero interrogando & respondendo commiscetur. Fictum enim verbum est παρὰ τὸ διαλέγεσθαι, quod est, verba cum altero commutare, colloqui, disputare, sermocinari, sermones cædere. Nam cùm philosophorũ consuetudo hæc esset, vt de rebus ad artes suas pertinentibus sæpè inter se commentarentur, eruditas illas collocutiones, διαλόγους (vt Laertius in Platone scribit) apellarunt, earumq; habendarum artem, Dialecticam, qua de causa eandem Laertius

eodem loco definit artem sermonis, per quam ex eorum quibuscũ sermo est interrogatione, & responsione aliquid vel confirmatur vel refellitur. Quod cùm ita sit, difficile dictu est, dialecticæ nomen non eius sermonis esse proprium, qui in dialogis habetur, cùm perpetua non continuatur oratio, sed in rebus singulis insistitur & intelligitur quid quisq; concedat aut abnuat, vt ex concessis disputatio concludatur. Et infra.

Ex quo intelligi potest, cùm & Græcorum & Latinorum consuetudine, nihil quicquam inter dialecticæ & Logicæ verbum, præter vocis sonum intersit, videri tamen Logicæ vocabulum, ad eam disserendi rationem quæ perpetua oratione constat, & quâ hodie plurimùm vtimur, ac multò magis ad eas disputationes quæ literis mandantur, accommodatum esse. Thus farre *Hottoman.*

Some others haue sayd, that this art may bee called λογικὴ, of the internall forme, essence, and nature thereof consisting in reason: but διαλεκτικὴ, of the externall maner and order of working, which is commonly done by speache and talke, as that word importeth, although Ramus vse them both as one, following Plato herein, who expounded διαλέγεσθαι, by τὸ λόγῳ χρῆσθαι, which is to vse reason.

Diogenes Laertius in the life of Plato, writeth, that Plato was the first who called this Arte Dialectica, and Valla reporteth that Aristotle was the first that named it Logica.

λογίζεσθαι, hathe a certaine relation to accompts, whereupon λογισμὸς, and συλλογισμὸς, as also λόγος it selfe whence both they come, are vsed for accompting and deducting of summes, and by a Metaphoricall sence are applied to Logike, but especially to Disposition the second part of Logike, where discoursing and drawing of one reason from another is put downe. But vse hath accepted them in a generall sence for the whole Arte of Logike, as wee shall see hereafter the like in those Latine wordes, Disserere and disputare.

[Is in Art:] An Art is a Methodicall disposition of true and coherent preceptes, for the more easie perceiuing and better remembring of the same: and this Methodicall or orderly disposition of diuers preceptes is taught in Logike, as perteining essentially thereunto. So that Logike was deseruedly called the

Art

Art of Arts, the instrument of instrumentes, the hand of Philosophie, because by the helpe thereof, not onely the groundes of naturall reason are artificially put downe, but all other Arts also are made to be Arts, as wee shall hereafter shew when wee come to the place appoynted for the due explication of Methode.

It is therefore said here, that Logike is an Art, to distinguish artificiall Logike from naturall reason. Artificiall Logike is gathered out of diuers examples of naturall reason, which is not any Art of Logike, but that ingrauen gift and facultie of wit and reason shining in the perticuler discourses of seuerall men, whereby they both inuent, and orderly dispose, thereby to iudge of that they haue inuented. This as it is to no man giuen in full perfection, so diuers haue it in sundrie measure. And because the true note and token resembling nature, must bee esteemed by the most excellent nature, therefore the preceptes of artificiall Logike both first were collected out of, and alwayes must be conformable vnto those sparkes of naturall reason, not lurking in the obscure head-peeces of one or two loytering Fryers, but manifestly appearing in the monumentes and disputations of excellent authors. And then is this Logike of Art more certaine then that of nature, because of many particulers in nature, a generall and vnfallible constitution of Logike is put downe in Art. So that, Art, which first was but the scholler of nature, is now become the maystres of nature, and as it were a Glasse wherein shee seeing and viewing herselfe, may washe out those spottes and blemishes of naturall imperfection. For there is no one particuler nature so constant and absolute, but by examining and perusing her owne force, shee may bee bettered: no nature so weake and imperfit, which by the helpe of Art is not confirmed.

Hottoman in the third Chapter of his first booke hath these wordes: Estne igitur dialectica quedam naturalis, quedam artificiosa? nequaquam: sed eius initia & semina quedam in hominum mentibus natura ingenerauit, quæ cum preceptis ac disciplina, tum vsu & assiduitate excoluntur. Eademq; cum aliarū artiū omniū, tum precipuè Musicæ ratio est. Nā omnibus a natura rudis quedā canēdi facultas data est: ab arte vero, quā naturæ notatio atq; animaduersio peperit, certa ratio traditur. Nō enim ars naturā

imitatur tantummodò, verumetiam, vt veteres docuerunt, confirmat & amplificat: causamq;, cur quidq;, vel hoc vel illo modo fieri debeat, reddit, quod præstare natura non potest, eaq; sola re artifex ab insscio discernitur.

Wasserleider therefore in seeking to reforme Ramus his Logike, bewrayeth his owne ignorance, for hauing first generally defined Logike to bee an Art, hee afterwardes diuideth it into naturall Logike and artificiall, as though the naturall facultie of reason were an Art of reasoning, which is contrarie to all reason, and includeth in it selfe a manifest contradiction. To conclude this poynt, there ought nothing to bee put downe in Art, whereof there is no ground in nature, for ars imitari debet naturam, and as that paynter is most cunning who can moste liuely erpresse his face whose counterfaite hee is to drawe, so hee that teacheth Logike must set forth no idle conceiptes of extrauagant braynes, but the true vse of naturall reason and vnderstanding: which is a necessary confutation of that absurditie mayntayned by Logicians, and inuented in Cloysters, that ficta, yea falsa exempla, bee good enough to make preceptes playne, whereas Plato in Theeteto calleth examples, ἐμπύρους λόγους sponsores & prædes rationes, tanquam ab eis fideiussum persolueretur. And Aristotle in the eight of his Topikes requireth such examples as Homer can affoord, not such as the pelting Poet Cherilus did inuent.

[Of Reasoning:] This our English woord, Reasoning, is more proper and fit to erpresse the nature of Logike, then either that other woord, of disputing, deriued from disputare, or the like, as disserere, and docere, vsed of Cicero and Melanchton: although I knowe that Beurehusius standeth in defence of these woordes, disserere, and disputare, which Ramus also vseth: and I am not much to mislike them in respect of any other Latine woord, yet not altogether to compare them with this our English woord of reasoning. For the woord, disputing, which commeth of disputare, it is Metaphorically, as Varro reporteth, and so is disserere: the one being borrowed of the Vinemaysster, the other fet from the sower: for as the first cutteth off superfluous branches in his Vine, which is properly disputare, so the other disperseth his seed in diuers places, and not confusedly throweth

all

all on one heape, which is the natural ſignification of this word, diſſerere. Now becauſe the Logician cutteth of all idle and vnneceſſarie curioſities, whereof there is no vſe in reaſoning, ſeuereth truth from falſhood, that which followeth from that which followeth not, order from confuſion, and handleth diuers arguments and axiomes in diuers places diſtinctly, not euerie thing in euerie place diſorderly: therefore hath hée friendly preſumed vpon the good nature of theſe two countreymen, in vſing their words of huſbandrie, to expreſſe a more elegant conceipt, although at the firſt not properly, yet by continuance of time, ſo conueniently, as that the Metaphoricall ſence is now better knowne than the naturall ſignification. Yet for that both theſe rehearſed properties of Logike, be rather particular functions of methode, than general operations of the whole art, it is plaine, that this word diſputing, with his originall diſputare, and that, diſſerere, if you reſpect the naturall ſignification thereof, cannot expreſſe the whole nature of Logike. Although I am not ignorant, as I ſaid before, that Ramus and his interpreter Beurhuſius, applie theſe words to the generall vſe of this art, not reſtraining them to thoſe two functions belonging to methode: whoſe iudgement as vſe alloweth, ſo I do not reiect, yet by their leaue leaue their Latine words behind our Engliſh.

Melanchton vſeth this word, docere: Docere, is to teach, and Logike is an art of teaching: but then marke what I meane by teaching, for you muſt not reſtraine the ſignification of it in ſuch ſort, as though there were no teaching but onely in ſchooles among Philoſophers and ſchoolemaiſters, or in pulpits among doctors and diuines: but generally, hée teacheth, whoſoeuer maketh anie other man know that, whereof before hée was ignorant, whether hée do it by explication and illuſtration, or proofe and concluſion: and thus if wée take this word, docere, it is ſomewhat more generall than diſputare, or diſſerere, put downe by Tully and Ramus: yet not ſo ample, as the nature of this art, whoſe vertue is ſéene not onely in teaching others, but alſo in learning thy ſelfe, in diſcourſing, thinking, meditating, and framing of thine owne, as alſo in diſcuſſing, peruſing, ſearching and examining what others haue either deliuered by ſpeach, or put downe in writing: this is called Analyſis, that Geneſis,

and in them both consisteth the whole vse of Logike.

As farre then as mans reason can reach, so farre extendeth it selfe the vse and vertue of this art of reasoning, whose most ample and almost infinite vse and power, hath neuer had in anie tong a more generall and yet proper name, than this of reasoning, as we vse it now adaies. Men reason in schooles as Philosophers, in Westminster as Lawyers, in Court as Lords, in Countrey as worldly husbands: whatsoeuer it be, nay whatsoeuer thou canst imagine to be, although it be not, neuer was, nor neuer shall be, yet by reason it is inuented, taught, ordered, confirmed: as the description of fame in Virgil, of famine in Ouid, of Elysian fields, of Styx, of Acheron, of the golden apples, and a thousand such poeticall imaginations. And therefore Logike hath beene of a long time vntollerably abused by those miserable Sorbonists, & dunsicall Quidditaries, who thought there was no reasoning without, Arguitur quod sic: Probatur quod non: no part of Logike without Ergò and Igitur. Whereas indede the true vse of Logike is as well apparant in simple playne, and easie explication, as in subtile, strict, and concised probation. Reade Homer, reade Demosthenes, reade Virgill, read Cicero, reade Bartas, reade Torquato Tasso, reade that most worthie ornament of our English tongue, the Counteſſe of Penbrookes *Arcadia*, and therein see the true effectes of natural Logike which is the ground of artificiall, farre different from this rude and barbarous kind of outworne sophistrie: which if it had anie vse at all, yet this was all, to fede the vaine humors of some curious heades in obscure schooles, whereas the Art of reasoning hath somewhat to doe in euerie thing, and nothyng is any thing without this one thing. Some Artes are appliable onely to some certayne subiect, but Logike is scientia scientiarum, as I sayd before, not tyed to one thing, but apt for anie thing, free from all, yet fit for all, framing orderly, prouing strongely, expounding playnly, perswading forcibly, any Arte, any cause, any question, any man whatsoeuer.

What then, will some man say, nede we any other Arts, if Logike alone can suffice for all? I aunswere, Logike alone is sufficient to helpe all, yet Logike suffiseth not for all. Logike telleth how to reason, dispute, examine, proue, or disproue any thing

thing, but the thing that is to bee reasoned, disputed, examined, proued or disproued, that Logike cannot afford, and therefore it is to bee sought for at such Arts, as professe suche thinges, so that Logike is profitable vnto all, and yet not any of them vnprofitable: but euen as they without this bee mangled and confused, so this without them is bare and naked. Logike is necessary for a diuine, yet Logike yeldeth no diuinitie: but when a Preacher hath by continuall perusing of the sacred Scriptures furnished himselfe with store of matter, then Logike wil teach him how to teach others, & not onely that, but also how to learne himselfe, to defend, to confute, to instruct, to reprehend. Logike sheweth generally what an argument is, and how to vse an argument, but the seuerall argumentes are elsewhere to be had. For as Arithmetike teacheth to counte money, not to finde money, and Geometrie to measure ground, not to purchase grounde: so Logike can tell you howe to reason of thinges, and yet reserueth the peculier doctrine of the same thinges to the seuerall professors thereof. I doe not denie, but one and the same man may purchase ground, measure ground, and also reason of the same ground, but hee purchaseth it by one Art, measureth it by another, and reasoneth of it by a third, hee purchaseth it as a worldling, measureth it as a Geometer, reasoneth of it as a Logician: and although one man may be furnished with all these three properties, yet euery Art must haue her owne by the lawe of Iustice, confusion must bee auoyded, and the preceptes of euery Art distinctly put downe, although the vse of the same preceptes may be common and concurre altogether in one man, if one man bee skilfull in all these Artes.

Ramus addeth this word, well, in the ende of the definition, which me thinkes were as well left out as put in, for although it may seeme to seuer the perfection of Art from the imbecilitie of nature, yet indeede, the very name of an Art, includeth this word, well: euery Art being an habite of doing that well whereof it is an Art. Howsoeuer it bee, it appeareth, that to reason well and artificially, is the duetie and ende of Logike: for it is not essentiall vnto Logike alwayes to perswade, no more then to a Phisitian alway, to heale, but to performe those

thinges which are prescribed in his Art, although the hoped euent and successe do not alwayes ensue.

The second Chapter.

Of the partes of Logike, and the seuerall kindes of Argumentes.

THere bee two partes of Logike, Exposition of the nature of argumentes, and Disposition of the same. Exposition is the first part of Logike which expounded the diuers kindes of argumentes by their seuerall affections and mutuall relations one to another, which for that it helpeth to inuent argumentes, is called Inuention. An argument is any seuerall conceipt apt to argue that whereunto in reason it is referred.

First, an Argument is either inhærent, or set elsewhere. Inhærent is that which is inuented by consideration of the nature of the thing argued: and is either originall and first or secondary and deriued. First is that which hath his beginning of it selfe. It is agreeable or disagreeable. Agreeable is that which agreeth with the thing which it doth argue. The agreeable is either fully agreeable, or agreeable in part: fully agreeable is that, where there is a greater cohærence and affinitie betweene the argument and the thing argued: fully agreeable is first, the cause and the thing caused.

Annotations.

THe Art of Logike, as is declared already, layeth downe the right vse of naturall reason: and this that wee call shewing or declaring how to reason, is no giuing of reason to him that had it not, but an applying or directing of the minde to the view and contemplation of that, which of it selfe it might perceaue, if it were turned and framed thereunto. For, as Plato sayth, 7. de repub. the trueth of the things comprised in Arts is as naturally propounded to the viewe of the minde, as colours bee to the sight of the eye: and therefore Aristotle in his first booke

of

of Elenchs hath set downe that which common experience doth confir me, that euery common person or silly soule vseth Logike in some part, and practiseth of himselfe by naturall instinct that which artificiall Logike doth prescribe in her seuerall rules and constitutions. Artificiall Logike then is the polysshing of natural wit, as discouering the validitie of euerie reason, bee it necessary, wherof cometh science: or contingent, whence proceedeth opinion. Although I knowe there is a great controuersie and contention among the auncient Philosophers, concerning these two: whilest some of them mayntayne onely Science, some others holde with opinion onely. Heraclitus called opinion the falling sickneſſe, for that thereby men many times fell headlong into diuers delusions and erronious conceiptes. So in like maner, the Stoikes held this for one of their Paradoxes, that Sapiens nihil opinatur, a wise man is not opinatiue, a wise man neuer iudgeth according to opinion. On the other side Anaxarchus was of this opinion, that all mans iudgment was but opinion, and that his vnderstanding coulde perfitly vnderstand nothing, which the Pyrrhonians taught after him, and the new Academikes: and a man may coniecture that Plato and Aristotle sometimes inclyned that way; for Plato in his booke called Timæus, ascribeth truth to God and Gods children, leauing nothing but truelike to mortall men, and Aristotle in the second of his Metaphisikes compareth mans vnderstanding in respect of perfect knowledge of trueth to the dazeling eyes of a Batt in the broade day light. But yet notwithstanding these forealledged places, both Plato and Aristotle haue elsewhere euidently declared that man is capable both of Science and certayne knowledge, as in thinges contayned in Arts: and also of opinion, as in infinit affaires which are dayly incident: and this was long before their tyme, elegantly put downe by the famous Poet and Logician Parmenides.

χρεὼ δέ σε πάντα πύθεσθαι,
ἠμὲν ἀληθείαν εὐπείθεος ἀτρεκὲς ἦτορ,
ἠδὲ βροτῶν δόξας, τῶν οὐκ ἔνι πίστις ἀληθὴς.

Oportet verò te omnia nosse,
Tùm veritatis suasu facilis sententiam,
Tùm verò mortalium opiniones, quarum non amplius fides vera.

Because of these two kinds of conceiptes, Aristotle would nedes make two Logikes, the one for Science, the other for Opinion: wherein (if so it may be sayde of so great a Philosopher) it seemeth he was but an Opinator. For although among thinges conceaued and knowne, some be necessary and vnfallible, some doubtfull and contingent, yet the Arte of knowing and Reasoning of the same (I meane Logike) is only one and the same, as the sight of the eye in perceyuing all colours, be they chaungeable or not chaungeable. And alwell might a man say there must be two arts of Grammer (if Grammer be a distinct Art) one for courtly speche, an other for country talke: or two distinct arts of making of cups, one for golden cuppes, an other for cuppes of siluer, as two Logikes, one for vnfallible Argumentes, and another for Contingent. Therefore one Logike suffiseth to dispute of all thinges, necessary or contingent whatsoeuer. Yet this one Logike her selfe in respect of her preceptes is alway necessary and neuer contingent, for otherwise it were no Art, but the application of it may be in contingent causes alwell as necessary.

[Two partes of Logike:] The Stoicall diuision of Logike into Inuention and Judgement, although both Aristotle himselfe seeme to commend it in some places, as in 8. Topi. 3: Rhet: and Tully and Quintilian dow altogether obserue it, is yet reprehended of some, who thinke that Judgement is not any seuerall part of Logike, but rather an adiunct or propertie generally incident to the whole Art: because, say they, there is vse of iudgement euen in inuention. But in my fancie they might better haue founde some fault with these wordes, Judgement, and Inuention, then reprehended the distribution, which is most true, if they consider what the Stoikes did vnderstand by these wordes. For by the first part called τοπικὴ, they intend the explication of the diuers kindes, natures, affections, relations, and proprieties of seuerall argumentes, which because it helpeth inuention, is called Inuention, as I sayd before: although indede a man shall no more finde argumentes by this first part of Logike, then he shall get Latine wordes by Etymologie the first part of Grammer: which made me alter the wordes, as not proper, but rather borowed from the Mathematikes, where two

or three numbers being receiued or put downe, a third or fourth number proportionable is found out, which of them is called ἐυρεσις, Inuention.

And by κρισις Iudicium, Iudgement, is meant nothing els, but a Disposition, ordering or placing and setling of these seuerall argumentes alreadie inuented, to the intent that a man may the better iudge of them, so that here Iudgement is taken for Disposition, the effect for the cause, for Iudgement ariseth of the ordering and disposing of arguments.

They might therefore haue chaunged the wordes, and kept the thing, which yet they haue not done: but brought in new diuisions of Logike, correspondent to the setling and placing of Aristotles Logicall discourses in his booke called Organon: sometimes into three partes, as Apodicticall, Topicall, Elenchticall, sometimes into two, by name Apodicticall and Dialecticall. Topicall, or Dialecticall they will haue to bee a seuerall kinde of Logike by probable argumentes. Apodicticall, that which disputeth by necessary conclusions, as though there were not one and the same Art, Science, and order of reasoning both by probable and necessary argumentes, as I sayde before, and the selfe same places of argumentes both in the one and in the other, as causes, effectes, subiectes, adiuncts, &c. both contingent and necessary. For, as for that third kinde of Logike, which they call Elenchticall, seeing it is no Logike at all, but rather the abuse and peruersion of Logike, I see no cause why it shoulde be taught in Logike: yet if any man thinke that the true preceptes of Logike once knowne, will not be sufficient to descry the falsenesse of sophisticall argumentations, he may for his contentation seeke for a full discourse thereof out of some commentarie, and not ouercharge the Art it selfe with vnnecessary institutions. I graunt there is something profitable in the Elenches, as also in some other tractates of the same kind, but if wee shall put downe all in Logike, for true Logike, which doth in any respect helpe Logike, wee shall neuer make an ende of Logike.

[Exposition is the first part:] As in Grammer, Aetymologie concerneth seuerall wordes, and Syntaxis the due coherence of the same, so Exposition the first part of Logike, declareth the particular affection and nature of euery seuerall argument, and

Diſpoſition the ſecond part, by ordering and ſetling the ſame, cauſeth iudgement and vnderſtanding. And as ſeuerall words bée in reſpect of Grammer, ſo ſeuered reaſons in reſpect of Logike, and as of many words is made ſpéech, ſo of diuers arguments ariſe ariſms.

Expoſition and Diſpoſition are not two ſeuerall arts of Logike, as though wée ſhould haue one Logike to expound the natures of ſeuerall arguments, and another to iudge of the ſame by Diſpoſition, but they bée two eſſentiall parts of the whole, which ioyned togither make one true Logike.

The doctrine of Inuention or Expoſition is generall, and not reſtrained onely to the finding out of a Medium, which they commonly take for the onely argument, but abſolutely and vniuerſally appliable to the inuenting of any thing, either true or fained whatſoeuer.

Againe, the arguments in Inuention muſt bée conſidered ſeuerally, ſinglely, and alone, then after to bée diſpoſed and ordered by certeine precepts, thereby to iudge of the truth or falſenelle of the ſame: as for example.

Paris A good ſheepheard.

Theſe two ſingly put downe as two arguments, to wit, the ſubiect and the adiunct, are afterwards diſpoſed in an ariome, to iudge of the truth thereof, as thus:

Paris is no good ſheepheard.

But becauſe this propoſition is contingent and doubtfull (for the arguments bée but in part agréable) therefore it is confirmed by another argument, that is to ſay, by an effect and working of Paris, I meane that which Thomalin putteth downe in July, in theſe words.

But nothing ſuch thylk ſheepheard was
whome *Ida* hill did beare:
That left his flocke to fetch a laſſe,
whoſe loue he bought too deare.

So then, héere bée three ſeuerall arguments, or two ioyned in the ariome before, and the third following in theſe verſes of Thomalin; which third they call, Medium, or third argument, thus:

Paris

1 *Paris*: 2 A good sheepheard.
3 To leaue his flocke to fetch a lasse.

Whereof it is concluded in this wise syllogistically, by dis-ioyning the two first arguments, the subiect and adiunct, Paris, and, The good sheepheard.

Hee that leaueth his flocke to fetch a lasse, is no good sheepheard:
But Paris did leaue his flocke to fetch a lasse,
Therefore Paris is no good shæpheard.

That which they call Medium, and third argument, is, as it were, an Arbiter honorarius, a determiner, a reconciler, a daies man: which if it agrée with both the other arguments, maketh the conclusion affirmatiue: but negatiue, if with one onely, as in the former example of Paris, the Medium, the arbiter, the determiner, is that effect of Paris, To leaue his flocke to fetch a lasse: which because it is agréable with the nature of Paris, but is flatly repugnant to the dutie of a good shæpheard, therefore is the conclusion negatiue, Paris is no good shæpeheard. So in Maister Ploidens reports, fol. 474. Saunders is a murderer. The Mediū is that effect of Saunders, to minister venim to the intent to poyson: which, because it agréeth as well with the nature of murder, as the affection of Saunders, maketh the conclusion affirmatiue, thus:

Hee that doth minister venim to poyson any one, is a murderer:
But Saunders ministred venim to poyson one,
Therefore Saunders is a murderer.

In this order, first of single arguments wée make arioms: which arioms, if of themselues they bée perceiued and graunted, they bée straightway iudged as true or false. And this is the first part of iudgement in arioms, called ariomaticall, determining only truth and falsenes in propositions or arioms. Now if these propositions bée doubtfull, then therof be made questions, which are to bée proued by third arguments, fet from the affections of the other two which were ioyned in the ariome, and lastly are to be concluded by syllogisme, the onely iudge of all coherence or consequence: as finally, Methode hath only to deale with the ordering and setling of many arioms, thereby to giue sentence

City. of

of methodicall proceeding or vnorderly confusion. And therefore I see no reason why I should with the common Logicians, chop in Canons, Maximaes, and rules of consequence, as they call them, applying them to euery argument of inuention, seeing that syllogismes, and onely syllogismes are the true and onely rules of consequence and inconsequence, as I said before.

The occasion, as I thinke, of this their errour, hereof arose: because if an Enthymeme be denied, we cõmonly confirme it by some axiome, which indeed is nothing els, but the supplying of the part wanting, as either the Maior, or Minor, as they terme them, or els some prosyllogisme. And this rule, Canon or Maxima, being so supplied, a plaine syllogisme proceedeth, the onelie determiner of coherence. And as all the force of consequence is in syllogismes, so all the vertue of arguing is in the seuerall affection of euery argument to the thinge argued: whiche affection is truely and artificially put downe in Inuention: in such sort that from euerie definition, and precept in Inuention, such rules, maximaes, canons, axioms, consectaries, corollaries, or howsoeuer you tearme them, may easily bee deduced: and, when necessitie requireth, shall be of vs put downe distinctly in their seuerall places. For, as for most of those outworne maximaes hudled vp in schooles, they be either vnnecessarie, and may bee easily perceaued by the definitions and explications of the arguments, or els not generally true, but in part: and therefore in no wise to bee put downe in art, but rather to be reserued for Commentaries, as that, Quod efficit tale, magis est tale, &c. which cannot stand, but by a number of friuolous and sophisticall distinctions. Let him read Beurhusius, if any list to see the true canons of Ramus his Logike, compared at large with these lame rules. It shal suffice at this time to vnderstand, that ỹ true maximaes, or canons of Inuention, are nothing els but certain rules concerning the seuerall force or affection of arguments: The canons of axioms, such precepts as declare the vse & force of axioms: and so, in a word, the canons of syllogisms and methode, are precepts touching the consequence and inconsequence of the one, & the perspicuitie or confusion of the other. Neither are there any rules of consequence at all, but only those of syllogismes. I haue in my text kept my selfe onely to such maximaes

both

both in Inuention and Diſpoſition, as are put downe orderly by Ramus, and are eſſentially belonging to this art: yet for the ſatiſfying of the expectation of ſome yong Logicians, ſomewhat vnacquainted with this newfound Logike, as it pleaſeth ſome to tearme it, I will hereafter, as occaſion ſhall ſerue, put downe in the annotations, ſome of the other ſtampe.

But heere may a doubt ariſe: For, ſeing that euery ariome and rule of Inuention is a part of Iudgement (becauſe it is an ariome, and euery ariome is of iudgement) it may ſeeme that Inuention and Iudgement be not diſtinct parts, but rather, as was obiected before out of Carpentar, confounded the one with the other. I anſwere, the rules and precepts of Inuention bee indeed ariomes, and therefore conſequently proceed from Iudgement: but ſo, as you muſt take them to be the fruits of Iudgement already ſhewed in ordering the ariomes and rules of Inuention: or examples of Iudgement, teaching the part of Inuention: Not as though theſe precepts were put downe in Inuention to teach a man how to iudge, either ariomatically, ſyllogiſtically, or methodically, which onely belongeth to the ſecond part of Logike called Iudgement or Diſpoſition: And if you ſo take them, then euerie ariome is not ſtraight way a part of Iudgement: but onely ſuch rules and precepts, as teach to make, order, and frame ariomes. For otherwiſe, euery precept of euery art, becauſe it is an ariome, ſhould bee taken for a part of Iudgement in Logike: whereas indeed they bee but the fruites and examples of that Logicall iudgement appearing in the orderly conſtitution of euery art. And ſo in Inuention, euery rule is an ariome, euery rule doth iudge, but euery rule teacheth not how to frame an ariome, euery rule ſheweth not how to iudge, which onely is the peculiar duetie of Logicall iudgement.

The art and doctrine of euery argument, is diſtinct, firme, conſtant, and immutable: yet the affection of arguments may bee altered, changed, and diuerſly conſidered, either in the ſame things diuerſly compared among themſelues, or in one thing referred to diuers, as in thoſe examples, put downe by Beurhuſius and Talæus,

God	Created man.	So the affectiō is of the	Cause procreant vnto the effect.
	Preserueth man.		Cause conseruant vnto the effect
	Is not man.		Disparats among themselues.
	Is not like man.		Vnlikes among themselues.

Where the things be as they were, I meane, God, and Man, which are here compared togither, yet the diuers kinds of relations and respectes, make the selfe same thinges haue diuers names and titles, according to their seuerall and diuers affections.

In like manner also it is, if one thing be referred to many, and drawne, as it were, through the places of arguments, although some arguments bee not incident to some things:

As, Man referred vnto	God, his maker,	hath the affections of	Effect procreated.
	Body, his matter.		Effect materiall.
	Reason his forme,		Effect formed.
	Gods glory, his end,		Effect finall.
	Actions, his effects,		Cause.
	Body, his part,		Whole.
	World, his whole,		Part.
	Liuing creature, general,		Speciall.
	Paule, speciall,		Generall.
	Earth, subiect,		Adiunct.
	Riches, adiuncts,		Subiect.
	Tree, his disparate,		Disparate.
	Beast, contrary,		Contrary.
	Homo ab humo, the notation.		Name interpreted.
	Reasonable, liuing,		The thing defined.
	Creature, definition,		Equall.
	Angell, equall,		Like.
	Blub, like,		

Yet the art is certeine and immutable, for, that which is a cause, can neuer bee an effect in the same respect and relation, which relation chaunging, altereth the argument, not the art.

[An Argument:] Euery thing hath his seuerall name according to his naturall propriety, or by the imposition and fancie of man, but Logike respecting a second vse in these seuerall things,

thinges, hath giuen them an artificiall and secondary name. As, fire hath this his name vsually knowne: but because it is sometimes considered of Logicians, as a cause of heate, therefore hath it his second note and name, and is called a Cause, one of the arguments, for that it argueth heate as his effect, and so in others. And by this affection wee learne whether one argument agree or disagree with another, and how it agreeth, whether as a cause with his effect (which is an absolute and full agreement) or as an adiunct with his subiect, which is but an agreement in part, and after a certeine manner, and so of the rest. So that argumentes bee nothing els, but singularum rerum affectiones extrà collocationem consideratæ, quibus ad arguendum sunt affectæ & comparatæ, sed vt Grammatica non voces, non vocum significationes, sed vocum affectiones, sic Logica non res, non rerum naturas, sed rerum inter se habitudines explicat. Itaq; omnia argumenta sunt relata: sed quia istæ relationes variæ sunt, itaq; varia sunt argumentorum genera. This affection of argumentes is by Hottoman expounded in this manner. Affectio ista est ratio quam quæq; res habet ad alterā. Græci λόγον appellant; itaque commodius rationem appellare possemus, sed vitandæ ambiguitatis causa, nomen affectionis delegimus, quo eodem *Cicero*, & in topicis, & in partitionibus hac eadem in re est vsus. Rationis autē verbū à Mathematicis sumptum est, qui λόγον definiunt duarum eiusdem generis quantitatum comparationem; interpretes proportionem Latinè nominarunt: quidam habitudinem: nonnulli habitum: qui commodius, respectum: barbari fortasse correspondenti am appellarent. Huius vis ac facultas ea est, vt declaret, quænam rei cuiusq; cum altera ratio sit, quemadmodum inuicem affectæ sint, quomodò se inter se habeant, qualis inter ipsas comparatio aut affectio sit, sitne pars an totū, genus an species, consentanea an dissentanea, &c.

[To argue:] To argue, is generall; either in inuenting onely one argument by the affection of the other, as when by the notion of the cause we seeke the effect, or els in placing them ariomatically, syllogistically, or methodically, wee argue some other thing either by explication or confirmation. The first consideration is of arguments seuerally conceaued

and alone by themselues, the second as they bée placed by disposition: and therfore Piscators animaduersion in this place is to small purpose, whereas hée reprehendeth Ramus, for saying that euery seuerall thing considered alone is an argument. For he in so saying meaned not, that an argument should bée so alone, as though it had no affection or relation to any other thing, but so seuerally considered, as that in Inuention we should not intermeddle with axiomaticall, syllogisticall, or methodicall conioining and setting together of the same seuerall arguments, for that doth wholy and only belong to Disposition.

[Any seuerall conceipt:] Except those wordes which do but bind and knit together the parts of speech, as coniunctions, which signifie no seueral and distinct thing in nature. Except againe copious and Rhetoricall phrases, where many wordes expresse but one thing, as, A man of an excellent and heauenly wit, where the words be many, the arguments but two, that is, the subiect and the adiunct. Lastly, except full comparisons, diuisions, definitions, and descriptions, where the argument is put downe in a whole proposition. This is Beurhusius exception, although to small purpose: for Ramus saith not, all such wordes as are alone, but all such reasons, conceipts, and thinges as are alone, and by themselues conceaued seuerally, as these arguments bée which hée héere excepteth: for though there bée many wordes, yet they all expresse but one conceipt of reason, and that is this single and sole argument which wée héere talke of.

But to let that passe, hé that taketh this word Argument, onely for a proofe or confirmation, deceaueth himselfe, and bereaueth Logike of halfe hir dignitie. Indéede it is vsually taken for that thing onely which doth proue and confirme, but héere it hath a more generall signification, and betokeneth not onely confirmations, but also declarations without any syllogisme or forme of concluding, and so doth arguere in Latine signifie, declarare, ostendere, perspicuum manifestumq; facere, vt in Virgilio,

Degeneres animos timor arguit, *id est*, ostendit.

Yet neuertheless the same kinde of argument may commonly

monly ſerue both to declare and to confirme (although ſome there bée which onely declare) ſo in the end of the firſt Aegloge of the ſhepheardes Kalender, Hobbinol vſeth an argument of the cauſe, onely for explication ſake.

Ah faithleſſe *Roſalynde*, and voide of grace,
Thou art the roote of all this ruthfull woe.

And in the ninth Aegloge, Diggon Dauy vſeth the ſame kinde of argument to the ſame purpoſe.

Their ill hauiour garres men miſſay,
Both of their doctrine and of their fay.

And yet here the cauſe argueth the effect, although there bée no ſyllogiſticall probation intended, for that the propoſition of it ſelfe ſéemed to Diggon true inough. And in our lawe, In euery count, barre, replication, reioynder, &c. Argumentes of aſſeueration and expoſition bée almuch vſed as thoſe of proofe and concluſion. Now for the other parte, no man doubteth but that an argument of the cauſe may bée very well vſed for confirmation, wherof examples are euery where apparant. Let no man therefore thinke there is no Logike, where there is no ſyllogiſticall concluſion, for euery argument ſerueth not euery where onely for confirmation.

[Inhærent:] I vſe this word till I méete with a better. I meane not ſo Inhærent, as though it ſhould alwayes agrée with the thing argued, for many times it is flatly repugnant therevnto, but ſo conioyned, as that the thing argued in maner offereth the argument to the Inuention of the Logician, and this is true in diſagréeable argumentes: otherwiſe it is in teſtimonies, which bée as it were borrowed from other matters, and brought to the Logician to bée framed accordingly.

Ramus diuideth an argument into artificiall and inartificiall, wherupon Piſcator toke occaſion of reprehenſion. For I ſée no reaſon, ſayth hée, why teſtimonies ſhoulde bée called inartificiall argumentes, ſéeing that there is as good Arte ſhewed in applying them, as in finding other argumentes: and if in Art there ought to bée nothing without Art, either Inuention wanteth Art, or teſtimonies are not inartificiall, they anſwere him thus. They bée not called Inartificiall, for

that they want Art, but because they argue not of themselues, but by the force of some artificiall: Which answere doth not fully satisfie mée: For the testimonie of God argueth most absolutely of it selfe, neither can wée well say, that his testimonie were not to bée beléeued, vnlesse hée were verus, bonus, iustus &c. sith wée cannot distinguishe these so from his diuine essence, but that whatsoeuer is in God, is God: and therefore it is an vnfallible argument, God spake it, therefore it is so, ipse dixit, is here sufficient, neyther néede wée séeke for any artificiall argument to confirme it, as wée doe in the testimonies of men.

I holde on the same course which Ramus doth in deuiding still by certaine steps and degrées, till I come at last to the lowest. For it were against Platoes precept and all Arte, to iumpe abruptly from the highest and most generall, to the lowest and most speciall, without passing by the subalternal.

[First:] First may bée conceiued of it selfe, without respect had to any other, as not depending on those that follow. So the cause may be knowne without any mention of a definition, but the definition can neuer bée conceiued without notice of the cause, as being made thereof: therefore the cause is first and originall, the definition secondary.

[Fully agreeable:] Scribonio & Piscatori non placet ista distinctio: nam si Logicè considerentur, æqualis & eadem est consensio: nam subiecta & adiuncta æquè non possunt alterum esse absq; altero, atq; causa & effectū: sin physicè, tùm accidentalis illa consensio est æq; in his & illis: nam faber potest non facere, quomodò puer potest non esse tinctus literis. Et nec omnis causa essentialiter conuenit cum effecto, nec omne subiectum accidentaliter cum suo adiuncto. hæc illi. Quia tamen diuersi sunt gradus dissentaneorum, ideò & consentaneorum videntur esse eodem modo. Itaq; hic nihil mutani hæreo.

These generall heades of argumentes haue béene diuersly tearmed of diuers Philosophers, as appeareth by Diogenes Laertius, and Aristotle. For sometimes they are called Categoremes, and the handling or discoursing of the same, Categories, both which are Greeke wordes of like signification, borrowed

borrowed from the place of iudgement, and applyed to phylosophicall conceipts. κατηγορεῖσθαι signifieth to say, or affirme one thing of an other, as in accusations it is vsually sæne, and in arguments easily perceaued: where one thing added to an other, is affirmed of the same, or else denied. Otherwhiles the preceptes of them bee called τόποι, whereupon, Aristotles bookes where these bee handled, are intituled τοπίκα. τόπος is a place, and therefore Tully called them in Latine, locos, sedes, fontes, places, seates, springes or fountaynes of argumentes. Sometimes they haue more apt and easie titles, as when they bee called Principles, Elementes, Reasons, Proofes, Argumentes, Termini and Media. Of all which, I vse for the most part, this word Argument, and sometimes Reason, and Proofe, as most vsuall and significant, the rest being rather straunge and metaphoricall.

The third Chapter.

Of the efficient and materiall cause.

A Cause is that by whose power and force a thing is caused: therefore this first place of Inuention is the fountayne of all knowledge, and that thing onely is knowne, whose cause is vnderstode. A cause is eyther before the thing caused, or els, in and with it. The cause before the thing caused, is eyther the efficient or the material. The efficient is a cause from the whiche a thing is: which although it cannot bee artificially deuided, yet it may bee for order, thus distinguished. First the efficient worketh eyther of it selfe and by his owne proper force, or els accidentally and by some erternal power. By it selfe, either naturally as the windes blowe, the fire heateth, or with aduice and voluntary deliberation as man in his seueral actions. Accidentally, eyther by necessitie, as when the efficient is by some violent compulsion constrayned to do this or that, or by chaunce and hazard, when any thing happeneth contrary to the purpose and intent of the worker,

as if a man digging for stones shoulde finde treasure, which comming to passe by some secret cause, is by vs ascribed to fortune: Secondly the cause efficient either worketh alone, which of it selfe without any help of others bringeth to passe his effect, as fire heateth, these bee ἄϋλια ἐνεργοῦντα καθάυτα, or with others, which is holpē by others, these be called συναίτια or συνεργούντα, this is either principall, which in working ruleth the instrumental, as the Carpenter the axe, or instrumental which is used of the principal: and is eyther idle, and of it selfe hath no action, but is onely moued of the principal, as the Sawe of the Sawyer, or helping, as being moued of the principall, and yet mouing it selfe also, as all such instrumentes which haue life, as the Oxe ploweth partly by his owne motion, partly moued by the plowman. Agayne it is such as the efficient cannot worke without it, as the writer without a pen, or contrarily.

Lastly, the cause efficient either maketh or destroyeth: that which maketh causeth a thing to bee γενετικὴ, and doth either procreate or bring forth that which was not before, as God the worlde, king Lud the Citie of London, or preserue and keepe that in being which before was procreated, as God the world, magistrates the cities. The destroying is that which causeth a thing not to bee that was, and doth eyther vtterly abolish and make that to haue no being whiche before was, as the flood, or in part destroy and deface, as sickenesse the body.

In June Hobbinoll reciteth a number of particular efficients of delight and pleasure, describing thereby the place where hee was, thus:

Loe *Collyn* heere the place whose pleasant syte
From other shades hath weand my wandring minde,
Tell mee what wants mee here to woorke delyte?
The simple ayre, the gentle warbling winde,
So calme, so coole, as no where els I finde.
The grassy ground with dainty daysies dight,
The bramble bush, where birds of euery kinde
To the waters fall their tunes attemper right.

Collyn

Collyn in the first Egloge maketh loue the efficient of his weale and woe.

A thousand sithes I curse that carefull howre,
Wherein I lou'de the neighbour towne to see,
And eke ten thousand siths I blesse the stowre
Wherein I saw so faire a sight as shee.
Yet all for naught, such sight hath bred my bayne,
Ah God, that loue should breede both ioy and payne.

In April Hobbinoll declareth the procreant causes of Elissa.

Pan may bee proud that euer he begot
such a bellibone,
And *Syrinx* reioyce that euer was her lot
to haue such an one.

And in July, Thomalyn describing that tyme of the yére, poetically, in the ende bringeth in the doggestare as causing death.

And now the sunne hath reared vp
his fierie footed teame
Making his way betweene the cup
and golden Diademe.
The rampant Lyon hunts hee fast
with dogge of noysome breath:
Whose balefull barking bringes in haste
pynes, plagues, and dreary death.

Such examples as want in the Kalender, shall be supplied out of our law.

In May, Piers vseth conseruant causes.

But tract of time, and long prosperitie,
That nourse of vice, this of insolencie:
Lulled the sheepheards in such securitie, &c.

Maister Plowden, Folio, 262: a: Et quant a ceo, ils disoyent, que le forfeture icy auera relation al temps del original offence commence, que enforce le mort, et ceo est le metter luy en ewe, et ceo fuit fait en sa vie, et ceo act fuit felony, et l'enditement dit, et doyt dire, que il mist luy en le eawe feloniousement. Car ceo que cause mort, doyt estre dit feloniousement fayt: et pur ceo si vn percust vn auter, ilsintq; apres, il de ceo morust, l'enditement doyt dire, que il luy feloniousement percusse, ilsintque felony est attribute al acte, lequel act est fait per viue home, et en sa vie, come Browne dit. Car il

dit; ſir Iames Hales fuit mort, et coment aueigne il al mort? Poet eſt redit per ſurrounder, et que ſurrounde luy? poet eſſe reſponde, ſir Iames Hales. Et quant fuit il ceo? Poet eſtre reſponde, en ſon vie. Iſſint que ſir Iames Hales eſteant en vie cauſa ſir Iames Hales d'eſtre mort, et l'act del viue home fuit le mort del mort home. Mere ſir Iames Hales did of himſelfe voluntarily drowne himſelfe.

Iſſint. Fol. 366. Si eſtrange al fine, que eſt de bon memory, deueigne de non ſane memorie, ou eſt impriſon le tierce an apres les proclamations fait, et iſſint continue tanque les ſinque ans ſoyent expire, et pius il vyent en ſon memorie, ou eſt hors del priſon, il ne ſerra conclude: carlaches ne puit eſtre aſſigne en luy que fault memory, ou libertie en ſon proſecution, et pur ceo ne fueront comprehende en le entent. Mes ſi en ceo caſe leſtraunge al fine, en le tierce an, vſt ale ouſter le mere, ou vſt priſe baron, et iſſint vſt continue tanque les ſinque ans vſſent eſtre paſſe, la ils ſerront lye. Car le aler ouſtre le mere, ou prender del baron fueront acts volontarie: Mes inſanitie del memory, et impriſonment ſont encounter le volunt del partie, et iſſint ils diſoyent, que reaſonable ſence doyt eſtre adde al letter.

Fol. 9.b. 13.b. 18.b. 19. a.b. Les parols del ley de nature, del ley de ceo realme et dauter realms, et del ley de dien auri voile yelder et doner lieu a aſcun acts et choſes faits encoũter les parols de meſme le leys et ceo eſt lou les parols del ley ſont infringe pur auoyder greinder inconueniences, ou pur neceſſite, ou per compulſion, ou per inuoluntary ignorance. Pur auoyder greinder inconuẽiences, come le bater del perſon de aſcun home en aſcun caſes, vncore le batre et naufre de aſcun home per auter, eſt cybien encounter le ley de nature, come encounter le ley del terre.

Mes vncore en 22. lib. aſſ. lou home fuit en arrage et non ſane memorie, et fiſt grand male, et le home, et ſes parents auri luy priſteront, et luy lieront, et bateront oue vierges, et eſt la tenus, que ils puiſſoyent ceo iuſtifier en auoydance del grand male que il puiſſoit faire, eſteant de non ſane memorie. Et vncore le ley de nature, et le ley del realme prohibite generalment aſcun de bater auter:

mes

mes ceſt eſpeciall caſe pur auoyder de greinder miſchiefe, ad vn exemption et ſpeciall priuilege. Et nous voironus auxi (come iay dit) que neceſſitie en toutes leys ſerra bone excuſe, et que touts leys done lieu al neceſſitie. Car il eſt common prouerb, que Neceſſitas non habet legem: et pur ceo, In præcipe quod reddat, le tenant excuſera ſa default per cretein de ceaux, et vncore cheſcun default eſt abhorre en noſtre ley, pur ceo que il eſt vn contempt del court: mes pur ceo que ſans peril de mort, il ne puit beigner, le neceſſitie del chaunce en tiel caſe, entant que nul default eſt en luy, luy excuſera.

Iſſint enfriender del priſo eſt felony en le priſoner meſme per leſtatute De frangentibus priſonam, vncore ſi le priſon ſoit ignie, et ils que ſont eins enfreindre le priſon pur le ſaluation de lour vies, ceo ſerra excuſe per le ley del reaſon: et vncore les parols de leſtatute ſont encounter ceo. Iſſint in 14: H. 7. les iurors que fueront iures ſur liſſue, pur fear d'un grand tempeſt departont, diſſonques et ſeuerõt eux meſmes, et fuit la tenus que ils ne ſerra amercies, et que lour verdit apres fuit bone, et que ils ne feſoyent malement, et ceo fuit iſſint tenus pur le neceſſitie del chaunce: mes auterment ils ſerra greuouſement punye. Et iſſint pur ſaluation de ma vie, ieo puis tuer auter que aſſault moy. Car coment que effuſion del ſange, et tuer des homes eſt prohibite per le comen ley, vncore cheſcun home en ſon defence, ou come champion en tryall en briefe de droyt, ou tiels ſemblables poyent tuer autres: et ceo eſt pur le neceſſitie del ſaluation de ſon vie en ſon defence, et en l'auter caſe pur le neceſſitie del triall.

Iſſint per le common Cuſtome del realme, les boſſelers ſerra charges pur les biens de lour geſtes perdus, ou embeſeles de lour meaſons: vncore ſi lour meaſons ſoyent enfreints per les enemyes de roy, et les biens diſſonques priſes, ils ne ſerra charge pur eux. Car per reaſon, ceo ne poet eſtre reſiſt: et pur ceſt cauſe ceo violence infringera le violence del cuſtome. Et auxi le ley de Dieu done lieu al neceſſitie. Iſſint que les parols del ley de dieu poient eſte infringe per neceſſitie ſans offence al dieu: et pur ceo en le viel ley, per le ley de dieu il fuit prohibite que nul comedereit le ſacre pans .i. panem propoſitionis: vncore il apiert

piert que Dauid pur necessitie de fampyne comede le dit pane, et il ne infringe le ley, coment que il infringe les parols del ley, come Christ meisme declare en le gospell, pur ceo que il ceo fist pur necessitie.

Iissint les Apostles del Christ per necessitie del fampyne auoisont les spices del frument pauters persons, et les comederent, et coment que ils infringe lescripture de sacre scripture, que prohibite a prender les biens del auters sans le volunt del otoners, uncore ils ne offenderont per ceo, come il apiert per le gospell. Iissint que per ceux cases nous deyomons que le ley des homes et de dieu yelde et done lieu al necessitie.

Et compulsion auri est bon excuse en nostre ley, come si home fist obligation per dures, il auoydera ceo. Iissint si le bracbe de aucun est traie per compulsion, et le weapon en son mayne tue un auter, ceo ne serra felony: et iissint en touts auters cases ou home fait chose estreant a ceo coact et compell, il ne serra pur ceo damnifie. Et auri si home infringe les parols del ley per inuoluntary ignorance, ceo nest enfreinder del ley. Come si un infant de tender age tue un home, ceo ne serra felony en luy, pur ceo que il nauoit discretion, ne intelligence, et pur ceo le ley imputa ceo a son ignorance, lequel est a luy a ceo age per nature, et iissint nul default en luy, et pur ceo il est dit Inuoluntary ignorance. Car si ne put estre sapient ne sage, coment que il voil, mes est ignorant per compulsion, et pur ceo il serra excuse, et tiel act est proprement dit delite fait per Ignorantia. s. ou inuoluntary ignorance est atunge le cause del act. Iissint si une home de non sane memorie tue un auter, coment que il ad enfreint les parols del ley, uncore il nad enfreint le ley, pur ceo que il nauoit aucun memory, ne intelligence, mes mere ignorance, lequel vient a luy per le main de dieu, et pur ceo est dit inuoluntary ignorance: a quel le ley imputa le act delite fait, en tant que nul default est en luy, et pur ceo il serra excuse, entant que il est ignorant per compulsion, et tiel act est dit et terme delite fait ex ignorantia, s. coque inuoluntary ignorance est le cause. Et in Deuter. in principio cap. 9. Dieu prounde especiall remedy, que cesty que fist chose per tiel ignorance

noyance ne serra puny pur ceo : car la il est ordeigne, que si vn laborer est al labor que vn hatchet, et le test del hatchet eschue, et tue vn que est south luy, que tiel laborer ne serra mise al mort, mes vn especiall ville fuit ordeigne pur sanctuary pur luy, pur ceo que il ceo fist per inuoluntary ignorance. Mes lou home enfreint les parols del ley per ignorance voluntary, la il ne serra excuse : come si vn home que est yure, s. drunke, tue vn auter, ceo serra selony, et il serra pende pur ceo, et vncore il fist ceo per ignorance. Car quant il fuit yure, il nauoit intelligence ne memory : mes entant que ceo ignorãce vient a luy per son act et folly demesne, et il puit resistar cest ignorance, il ne serra priuilege pur ceo, et Aristotle dit, que tiel home est digne de double punishment, pur ceo que il ad doublement offende, s. en estant yure, en male exemple de auters, et en seasance del act. Et ceo act est dit et terme deste fait ignoranter, s. ou il est cause de son ignorance demesne : et issint le diuersitie perenter chose fait ex ignorantia, & ignoranter. Et issint come icy dit, lou les parols del aseun ley sont infringe pur auoider greinder inconueniences, ou per necessitie, ou per compulsion, ou per inuoluntary ignorance, que en touts ces cases le ley nest offende. Et adonques veyromus et examineromus nostre case. Et en nostre case le Moade fuit eiect, et le incerteintie fait pur auoyder le greinder mischefe. Car le vie de chescun home est plus pretious que aseun biens sont, et le perder del vie del home est plus grand mischefe que le perder del biens. Et issint en auoydance del ceo plus grand mischefe, le eiectement, et le incerteintie fueront faits. Auri ceo fuit per necessitie, et per le plus grand necessitie que puissoit este fait, s. per necessitie en auoydance del mort. Et le necessitie icy fuit ey grand que en les auters cases auãt dits, s. le necessity en le case de creteine de ewe, et del famine : car est pur saluation de vie en l'un case et l'auter. Et auri l'act poet estre dit d'estre fait per compulsion : Car quant vn chose veigne a tiel point, que sil ne fait tiel act, que adonques il presentment morera, et en auoydance del present mort il ceo fait, tiel act poet bien este dit d'estre fait per compulsion, et per le plus grand compulsion que poet estre. Car il nad plus grand compulsion que

compulsion del mort, s. que il morera, sil ne fist tiel chose, et illint icy l'eleçement del woade, et le incerteintie del remenant vient per compulsion. Et auxi il ne poet estre deny mes que le ignorance icy del incerteintie fuit inuoluntary, entant que l'eleçement del woad que fuit cause del ignorance, fuit per compulsion, que est inuoluntary. Et entant que le ignorance del incerteintie est dette ascribe et impute tantsolement al necessitie et compulsion, et pur auoyder greinder mischiefe, queux choses per prouydence ne puissent estre preuent, ne per circumspection eschue, ne per poiar resist, adonques ieo dye, que nul default est in Fagalla &c.

Principal, instrumental. Fol. 98. Car ils disoyent, que quant plusors veignont a faire vn act, et lun solement ceo fait, et les auters sont present, abbettant luy, vn prist de luy aider en le fait, ils sont principalles a tous entents et fortement come celly que fait le act. Car le presence de les auters est terror a celly que est assault, et occasion que il ne osast luy mesme defender. Car si vn viest son enemy, et 20. de ses seruantes veignant a luy assaulter, et ils touts trayerront lour espees, et luy enuyron, et vn solement luy percust, illint que il de ceo morust, ore les auters serrõt per bone reason aiudge cy grande offendours que celluy que luy percust.

Car si les auters, nussent este present, il peraduenture voile auer luy defende, et illint eschape. Mes le number de les auters present et prest a luy percusser auxi, serra aiudge grande terror a luy, et abatement de sa courage, et occasion a faire luy despeirer a se defender, et est occasion de sa mort. Illint que lour presence est la cause de son terror, et le terror est cause que il receiue les plagues, et les plagues sont cause de sa mort, et donques entant que ambideux les choses, s. les plagues, et le presence les auters que ne donont pas les plages, sont aiudges la cause de sa mort, il ensuit que touts eux, s. les serriors, et les auters present sont en semblable degree, et chescun est participant del fait del auter. Et le fait, quant a celly que est mort, et quant al punishment de ceo, (coment, que il consist de deux parties) vncore en le ley il est sans diuision. et nyent contrestant que ne soit que vn plage, done per vn solement, vncore il serra aiudge en le ley,

le

le plage de cheſcun, ſ. done per ceſty que le done pur luy meſme, et done pur les auters per luy come lour miniſter et inſtrument. et eſt cy ſoꝛtement le fait de les auters, ſicome ils touts ount tenus ioyntment oue lour maynes le baſton, ou le auter inſtrument, oue que le plage fuit done, et vſſent touts enſemblement percuſſe l'occiſe.

Fol. 497. et 498. Touts les Juſtices agreont en vn, que le oꝛdinary, le Patron, et le roy, doyent agrèr a faire vn appꝛopꝛiation, et ſont actoꝛes huius fabulæ (come le ſeignior Dyer le terme) ceſtaſſauoir, le oꝛdinary inferioꝛ, ou ſupꝛeme. Car il eſt le pꝛincipal agent en ceo, eo que il ad le ſpirituel iuriſdiction, et lact del appꝛopꝛiation eſt choſe ſpirituel. Et loꝛdinary dit, Appropriamus, conſolidamus, & vnimus, come pꝛincipal actoꝛ en le cauſe, come Manwood Juſtice dit: eoque le choſe que concerne le cure de eſgliſe, eſt choſe que concerne les alms des parochians, de queux, deins ſa dioceſſe, le eueſque ad charge. Et pur ceo en le appꝛopꝛiation le ley attribute a luy pꝛincipall part. Et ceo que le oꝛdinary del dioceſſe puit faire, ceo le pape que vendicat a luy ſupꝛeme iuriſdiction oultre touts oꝛdinaries, vſaſt de faire deins le realme, come ſupꝛeme oꝛdinary, et fuiſt long temps ſuffer de ceo faire, et iſſint il vſaſt de faire viſitations, coꝛrections, diſpenſations, et tolerations, deins cheſcune dioceſſe de ceo realme, et tolle de les eueſques deins ceo realme tout come luy pleſt: et enſuant ceſt vſage il vſaſt de faire appꝛopꝛiationes ſans l'eueſque, quel fuit pꝛiſe d'eſtre bone et l'eueſque, que ne fuit accoumpt ſoꝛques come inferioꝛ oꝛdinary, ne vnques counterdiſt ceo, mes ceo fuiſt vſe et accept come bone. et tiel autoꝛitie et iuriſdiction que le pape vſaſt deins ceo realme fuit agniſe per le parlyament in Anno. 25. H. 8. et auters ſtatutes, deſte en le dit roy Henry le Huyte: et de luy deſcendiſt al ſucceſſoꝛs: donques le appꝛopꝛiation fait per le roy ſolement ſans l'eueſque, eſt ſi bone, come ſi l'eueſque vſt le fait, ou ſicome il fuiſt pꝛiſe en auncient tẽps quant le pape le fiſt. Mes coment que le oꝛdinary inferioꝛ, ou ſuperioꝛ eſt celuy que doit faire le appꝛopꝛiation vncoꝛe il ne poet ceo faire ſans le bon volunt del patron. Carle Patron ad en le aduouſon, tempoꝛal inheritance ceſtaſſauoir,

deins

fee simple, le quel le ordinary, ne en auncient temps le pape, ne puit toller de patron, ne alterer sans le bone volunt del patron. Mes en appropriations le patron est vn part, car il doit accepter ceo: et le ordinary est le agent, et il est le patient. Et son assent en submission de luy al volunt le ordinary, et en acceptance del son order, et en execution del ceo que est ordeigne, est declaration de son entent: et tout serra entende deste fait a son request, car le benefite est soen: et issint le ordinary, et le patron sont duo actores huius fabulæ. Et oultre eux, il y ad vn tierce, que ad parte a faire en cest action, et ceo est le roy, come roy: car il puit este lede per cest mariage. Car le auoulson est tenus de luy mediatment, ou immediatment, &c.

Fol. 79. a. Car troys choses font ceo vn act (il entende vn act de Parlement) s. l'assent de les seignios, de les comons, et de le roy: et l'un, ou deux sans le tierce ne fait ceo vn act. Car coment q; les seignios et comons agree al chose, vncore n'est act tanq; le roy ad assent auri. Cause en compaigne.

Cause procreant. Fol. 214. Adonques icy en le principal case, le roy Henry le quart fuit fits et heyre a Iohn de Gaunt, que fuit vn des fits le roy Edward le tierce, et fuit auri fits et heyre al Blaunch feme del dit Iohn de Gaunt, que fuit file et heyre Henry Duke de Lancaster. Issint q; le Duchy de Lancaster vient al dit Henry le quart per discēt del part sa mere.

Folio 242. b. Car del heure que tout iustice, tranquilitie, et repose est deryue del roy come del fountaine de ceo, le ley en tous ses besoignes et choses luy fauour come le chiefe test del ceo.

Cause conseruant. Fol. 315. b. le roy est le test del bien publique, et les subiects ses membres: et l'office le roy que le ley a luy appoynt, est, de preseruer ses subiects.

The matter is the cause of the which a thing is made.

So in August Willy sheweth what matter his cup was made of, thus:

Then lo, *Perigot*, the pledge which I plight,
A mazer ywrought of the maple warre.

In December Collyn in his complaint,

Where I was woont to seeke the honny Bee

Woorking

Woorking her formall roomes in waxen frame,
The grisly toadestoole growne there might I see,
And loathed paddocks lording on the same. Againe,
And learn'de of lighter timber coats to frame,
Such as might saue my sheep & me fro shame. Againe,
To make fine cages for the Nightingale,
And baskets of bulrushe was my woont.

Maister Plowden. Fol. 15. b. Les vines del payne sont le mater del toge.

Annotations.

ARistotle sometimes calleth the efficient, the beginning of motion and rest, as in the first of his Metaphysikes, and second of his Physikes. And other whiles hee vseth this very name, Efficient, as in his Topikes and Demonstrations.

The auncient Philosophers made great discourses concerning this cause, but some very fabulous, sayth Aristotle 3. Metap. As Hesiodus and Parmenides made Loue the maker of all things, some obscure and ambiguous, as Hermotimus and Anaxagoras sayde that a certaine diuyne spirite was the author of all; so Empedocles giues all to Concord & Discord, and diuers others to other diuers things. Wherfore Aristotle compareth them to yong fresh souldiers and vnexperienced fellowes, that many times hit home, and lay on loade, but without eyther art or order.

αἴτιον, or αἴτιον in Greeke is a cause in English. It is sometimes taken generally for any reason or argument by common custome and vse of speech: but here it hath a more speciall and proper signification, and conteyneth onely these foure kinds of causes following. αἴτιον and αἴτιατον, bee very significant words to expresse the cause and that which is made of the cause: The Latinistes haue none so good, vnlesse you take that dunsicall deriuation, Causa, Causatum, which wee imitate in English to very good purpose, thus, the cause, and the thing caused: Where, as the word, Cause, comprehendeth efficient, materiall, formall, and finall cause, so, the thing caused, aunswering αἰτιατον in Greeke, and Causatum in Latine, conteyneth the seuerall effectes of euery particuler

cause, as proportionably we may say, the ende and the thing whose end it is: the forme and the thing formed, the maker and the thing made, the matter and the thing materiate. For otherwise, although in Latine, Effectum do stand for all foure, yet properly it onely betokeneth that which is caused by the efficient. For thus we may distinguishe the seuerall vertues of the foure causes, although I knowe they all concurre togither in causing, so that the constitution of the thing caused is not set from this or that alone, but from all foure ioyntly.

Fœlix qui potuit rerum cognoscere causas, sayth Virgill. For although by effects and other argumeuts we may haue a probable gesse and make sensible coniectures at thinges: yet no true science or knowledge is had but from the causes. By the effectes and euentes we see τὸ ὅτι, that thinges be so: but by the causes we knowe τὸ διότι, why they be so: and that is onely worthy the name of knowledge.

These diuers sortes and distinctions of efficients are greatly to be considered in dayly affaires, as containing in them the reason of the well or ill doing of any thing: of all punishments, rewards, excuse, compassion. &c.

Omnis procreatio & conseruatio fit natura, consilio, per se, vel per accidens: itaq; illa primo, hæc postremo in loco collocaui.

[Naturally:] So all naturall thinges be made, marde, augmented, diminished, altered, and remoued from place to place by this operation of nature.

I sayd before that the efficient was rather distinguished then artificially deuided. For in trueth the preseruing cause is the efficient rather of the preseruation it selfe, than of the thing preserued. And the instrumentall cause, as it is an instrument, is no efficient at all, but rather a helping member or part of the efficient, sith it hath no power in it selfe to cause the thing caused. Causa sine qua non is of some referred to helping causes. Occasio est agendi tempestiuitas siue opportunitas casu oblata, quod postremum ex nominis etymologia intelligitur, reliquum ex appellationibus græcis, καιρὸς, εὐκαιρία, ἀφορμὴ, quorum nominum extremum,

notat

notat tempus vnde agens initium agendi facit, quod græcè expreſsius ſonat, τὸν χρόνον ἀφ' ὃ ὁρμᾷ ὁ πρῶτος ξόμενος. videtur occaſio eſſe cauſa per accidens, ſed diuerſa ab illis duabus a *Ramo* poſitis.

Ariſtotle in the ſecond of his Phyſikes diſtinguiſheth betwæne Fortune and Chaunce, as making Fortune properly incident to thoſe efficients onely which worke with aduiſe and deliberation, yet then vſe it not, and this is called Imprudentia, when wé do a thing vnawares. But Chaunce hé will haue that to bé which is found in things void of ſuch deliberation. So that if a man ſhould call the ſtones that couer ſome honourable perſonage, fortunate, for that they bé ſomewhat honored, this were but an vnproper kind of ſpeaking by Ariſtotles rule.

A man goeth towards Weſtminſter to talke with his coũſeller, and miſſeth of him, hére his going was in vaine: but in going hé findeth a ringe: His going to Weſtminſter was the cauſe of the finding of the ringe, but yet ſuch a cauſe as wé call Fortune, or Hapħazard. So Ouid excuſeth himſelfe for ſéeing ſomewhat more than hé ſhould, before he would.

Cur aliquid vidi? cur noxia lumina feci?
Cur imprudenti cognita culpa mihi eſt?
Inſcius *Actæon* vidit ſine veſte *Dianam*,
Prædafuit canibus non minus ille ſuis.
Scilicet in ſuperis etiam fortuna luenda eſt,
nec veniam læſo numine caſus habet.

In like maner Tully reporteth in his thirde booke de natura deorum, what good fortune befell Iaſon Phæreus, who hauing an impoſtume, as hé thought, incurable, went to fight with purpoſe to dye, but with a wound his impoſtume was opened, a thing which neyther himſelfe nor his phiſitians euer imagined: Hére then was fortune on eyther ſide, in Iaſon that was wounded, and in him that gaue him the wound: good in the firſt, bad in the ſecond. For the enemies weapon was by fortune a cauſe of Iaſons vnexpected health, whereas death was deſired of the one, and intended by the other, for he that gaue the ſtroake, thought rather to make a new wound than cure an olde diſeaſe. This is fortune with

Aristotle. Nowe on the other side, if a three-foted stoole should fall from aloft, and yet in falling stand on his feete, this with him is chaunce, for the stoole fell for no such ende, and it is a thing altogether senceleſſe. Epicurus said that the world was made by the casual concourse and mixture of litle round indiuisible bodies, like moates in the sunne, whose ridiculous blasphemy Tully mocketh not without deserued cause, 2. de nat. deorum: for so, if a man shoulde by chaunce cast abroad an hundred thousand or more of characters or Printers stampes, hee might as well reade on the ground all saint Austins workes or Cowpers dictionary by the casuall scattering of A. B. C. These bee examples of chaunce with Aristotle, not of fortune. But it is folly to stand vpon this nice and friuolous distinction of Chaunce and Fortune, sith in common speech they be taken all as one, and so they bee heere to bee vnderstoode.

In this kinde of cause, ignorance and vnwitting simplicitie haue place as I sayd before, whereof come excuses and supplications, when a man pleadeth ignorance, and therefore hopeth to finde pardon, as Tully for Ligarius, Ignosce pater, errauit, lapsus est, non putauit, si vnquam posthac. And againe, Erraui, temerè feci, ad clementiam tuam confugio, delicti veniam peto, vt ignoscas oro. But indeede, this name of Fortune, Chaunce, Hap, or Hazard, was onely inuented by such as knewe not the first cause, Gods prouidence: And therefore when any thing fell out contrary to theyr expectation, whereof they neyther vnderstoode the cause, nor could yéeld any reason, they said it came by chaunce, fortune and hazarde. Whereupon Fortune was made a goddesse of good luck: and many christians vse these prophane tearmes, God send mée good lucke, and good fortune. Whose idle prayers bee noted by an Ethnike Poet.

Nullum numen abest, si sit prudentia; sed te
Nos facimus, fortuna, deam, cæloq; locamus.

Aristotle calleth Fortune, παρὰ λόγον, ἄορισον, ἄδηλον, ἀνθρωπίνῳ λογισμῷ ἄδηλον, improuidum, incertum, dubium, humano iudicio ambiguum, and yet ὡς θεῖόν τι ὄν καὶ δαιμονιώτερον, vt diuinum quiddam & beatum.

Canons

Canons incident to causes generally.

God onely is the first and principall cause of all thinges. All other causes whatsoeuer are secondary, and subiect to his eternall direction.

Nothing is without a cause.

If all the causes concurre, the effect will followe.

To whatsoeuer thing you ascribe the cause, or deny the cause to ỹ same you attribute or deny ỹ effect or thing caused.

Such as the cause is, such for the moste part is the thing caused: this holdeth not in destroying causes.

Particuler Canons of the efficient.

When many efficient causes ioine and concurre together in any action (as the principall cause with other helpers and instrumentes) there they all ioyntly together bee onely the full and perfect efficient cause of that effect.

Cause naturall, voluntary, accidentall, violent.

God hath distributed to euery creature some naturall proprieties, vertues and operations.

If the naturall vertue, and propertie of any thing bee affirmed, the naturall effect will follow, vnlesse that naturall facultie bee otherwise let or hindered, and if the effect bee, the cause must also haue gone before.

If will, and aduise, or deliberation bee, then the effect may bee.

Such as the naturall disposition and will is, such is the effect iudged to bee.

If the cause be in hazard, that is, if the cause bee to vs vncertaine and vnknowne, then may the effect fall out vncertainely and by hazard, or when wee loke not for it.

Alone and with others.

If the sole cause worke continually, the thing caused is alwayes, if not, then otherwise: if the efficient do necessarily require the helpe of others in working, then without them nothing can bee done: if not, then otherwise: if it worke by instrumentes, then are those instrumentes required. If the efficient worke alone, then it deserueth the more, either prayse or condemnation, if with others, then the lesse, so Nisus 9. Aeneid. accuseth himselfe, and excuseth

Euryalus. Me, me, adsum qui feci, in me conuertite ferrum,
ô Rutuli, mea fraus omnis, nihil iste, nec ausus,
Nec potuit.

Procreant, conseruant.

No efficient cause, except God, can make any worke without matter. Hinc illud,

gigni,
E nihilo nihil; in nihilum nil posse reuerti. And if the matter bee, the worke may bee made.

If the procreant and conseruant cause bee, the thing may bee procreated and conserued. If the vndoing and destroying cause bee, then must the thing decay.

If the cause efficient bee good, the effect will bee good: and bad, if bad.

If the destroying cause bee good, ỹ thing destroyd was bad: If the thing destroyed bee bad, the cause destroying must bee good, ỹ is to say, hath don some good, hath brought some profit.

The efficient may bee expressed by variety both of Grammaticall cases and Rhetoricall figures: as in procreant causes, God is the father and fountayne and well of all goodnes. The beginning of euery good thing is in, of, and from God.

From procreant causes the Poets do oftentimes fetch their epithites & circumloqutions, as, Sole satus *Phaeton, &c.* Phaeton borne of the sunne.

If you put downe, or take away, that is, if you affirme or deny the cause efficient, procreant and conseruant, in tyme fit and conuenient to worke, and being not idle, then the effect must bee put downe, or taken away: but diuersly, according to the diuersitie of the causes themselues. For,

If such a cause bee, as that it worketh of his owne proper force, plainly and certainly, no other thing helping it, then must the effect follow certeinly.

Now let vs see a little the vse of these Canons, in comparison of the plaine definitions and explications of proprietics put downe by Ramus. Let this serue for an example.

He that is idle, is wanton:
But *Paris* is idle,
Therefore *Paris* is wanton.

In the proposition, which is the first axiome of the three, Idlenesse, as a procreant cause, doth argue Wantonnesse, as his effect. In the second axiome which maketh the assumption, the same Wantonnesse, is an adiunct of Paris; that is, a qualitie adioyned, or incident to the nature of Paris. Nowe according to the common Logicians, in this sorte must you iudge by disposition.

Paris is idle,
Therefore he is wanton,

For the cause beeing put downe, the effect will followe. But otherwise; if you beleeue Ramus, thus:

The proposition, which was this; He that is idle is wanton, is a doubtfull and contingent axiome, and yet, for the most part, most true, by reason of the affection of such a cause to such an effect. The assumption was this, But Paris is idle, which is also a contingent axiome, and must bee confirmed by the maners and behauiours of Paris. The conclusion it selfe doth follow necessarily, by force of the forme and constitution of the syllogisme: but yet, of it selfe, it is but a contingent axiome, although the deduction of it from the premises, bee, as I sayd, necessary, by reason of the lawfull framing of the syllogisme. If therefore the proposition bee denyed, I answere, that it is a contingent axiome, for the most part true, and therefore you cannot iudge it altogether false. And this I confirme by the definition of the efficient cause already put downe, thus; The efficient is a cause from which a thing is, which cause if it bee, the thing caused either is, or may bee. This nowe is a new and prosyllogisticall argument, fet from the very naturall definition of the argument it selfe, that is of the cause efficient: nay rather this is that common maxime vsed of others, if the efficient cause bee (that is, in due time, and not hindered) the effect will follow. But heere, the variety of efficient causes is diligently to be marked, as some be alone, some with others, some accidentally, some of their owne force; as before I haue shewed. So then, by this we perceiue, that the Canon or Maxima, doth nothing concerne the consequence, but onely the confirmation of the

proposition and thing it selfe. Thus much for the proposition.

Now if any man deny the assumption, it must, as I sayde before, bée proued by the life and conuersation of Paris himselfe. For in euery syllogisme, the premisses, as they terme them, that is, the proposition and the assumption, must bée proued and confirmed, eyther by axiomaticall iudgement in Logike proceéding from the seuerall affection of argumentes to the things which they argue, or els by other arts and daily affayres incident to mans life. And commonly the propositions are proued to bée eyther contingent or necessary axioms, by Logicall definitions of argumentes, and certayne rules or canons, which are, as it hath béene tolde, brought in for new and prosyllogisticall arguments for the confirmatiõ of the said proposition, and not as proofes of the conseqution. And if you thus apply rules, canons, and maximaes, whether proper to this Art, or those common receiued ones, you shall not do amisse.

Lastly, concerning the conclusion of this syllogisme, if any man do so much want good maners, as to deny it, you may iustly say, there is no reason why it should bée denied, vnlesse the constitution of the whole syllogisme bée not lawfull and artificiall.

I will héere insert a few examples gathered out of our Law bookes, for the better vnderstanding of some of these canons, & those distinctions of efficient causes put down before.

Cause principall and instrumentall.

Hitherto may bée referred, what is sayde of principall and accessaries. Stamford, lib. 1. cap. 44. Nota que in grand treason, yl y ad nul accessories, eins touts sont principals. Vt patet, An. 3. H. 7. fol. 10. Illint que quecunque offence fait home accessarie en felony, mesme l'offence in grand treason fait luy principall. Mes en petit treason, ou felony, ou auters tiels crimes, accessaries poient estre.

Accessaries sont deuant l'offence perpetrate, in procuring or commaunding auter de faire vn felony, mes n ient esteant present a le fait: illint, apres l' offence perpetrate sont ceux qui receuont vn felon attaint, bien conusants del fait que il

ad

ad fait, ou luy fauoront, ou aydont, &c. In attainder sur apparance et default, le principall doit estre attaint deuant l'accessory: et l'acquitel del principal est auxi acquitel del accessory.

Accidentall.

De Homicide per misaduenture, vide Fitz. tit. coro. 3. E. 3. P. 354. & P. 302. P. 2. H. 4. P. 69. & P. 11. H. 7. f. 24.

Si homicide soit fait nient per home, eins per auter casualtie, de ceo surda Deodandum. Deodandum est ou home auient a sa mort per misaduenture d'ascun chose que chiet sur luy, ou per misaduenture dun laps que il mesme suffra, in chiant de ascun chose sans estre enchesonée per ascun auter home; ceste chose quelle enchesona sa morte, serra forfet, et pris come Deodand. Vide Fitz. tit. coron. P. 403.

Concerning casuall homicide, I remember an odde historie of a certaine man who falling from the top of a house, lighted on an other mans necke, and crushing him to death, preserued himselfe. The sonne of the dead man, procuring the reuenge of his fathers death, caused him that fell to bee had before the Judge: Where hee no lesse pretily then reasonably, offered him this faire play: gett thee vp, q hee, to the top of the same house: I will stand where thy father did: and if by falling vpon mee thou bruse mee to death, and saue thy selfe, I promise thee, my sonne shal neuer seeke to reuenge my death.

Necessitie, Fortune, &c.

Stamford: lib. 1. cap. 5. Homicide fait de necessitie ineuitable pur auancer iustice, est Justifiable. Car le vicount, Baylie, ou ascun auter, qui ad garrant darrester home endite de felony peut bien Justifier le tuer de luy, sil ne voile suffrir luy mesme estre arrest, eins estoit al defens tielment, que l'officer ne peut faire l'arrest sans luy tuer. et en tiel case l'officer serra discharge sans attender le grace le roy. s. sans, acquerer pardon, vt patet 22. lib. Ass. p. 55. et tit: coro in Fitz: P. 22. E. 3. P. 2. 61.

Item si plusors veignont a comburer ma meason, moy esteant la dedeins, et inuironnont la meason. mes ils ne ceo comburont: et ieo saetta hors, et occida vn de eux, ceo nest felony, vt patet 26. lib. ass. p. 23. Mesme ley est sils veignont a

ma meaſon pur moy robber, et mon garcon qui eſt oue moy in la meaſon, tua vn de eux. Fits: tit: coro: 3. E.3. Itiner. North: P. 330. per Louth.

Mes coment neceſſitie ſerra interprete in homicide ſeipſum defendendo. Vide Fitz. tit. coro: P. 266. an 43. lib. aſſ. P. 31. & 3. E.3. P. 284. P. 286. P. 287. & P. 297.

Item, 21. H. 7. 39. Per Tremayle Juſtice, ſeruant poit occider home in ſauant le vie ſon maiſtre, ſil ne poit autrement eſchaper.

That this hath béene practiſed in England continually, it may appeare by the diſcourſe of Bracton, who wrote in king Henry the thirds time, in this manner.

Eſt enim inter alia crimina, crimen quod ex parte tangit ipſum regem cuius pax infringitur, et ex parte priuatam perſona n, quæ nequiter & contra pacem regis occiditur. Vnde primò videndum eſt de homicidio, quid ſit & vnde dicatur, quæ eius ſpecies, & qua pœna homicidæ punientur.

Eſt enim homicidium, hominis occiſio ab homine facta. Si autem à boue, cane, vel alia re: non dicitur propriè homicidiū.

Dicitur propriè homicidium, ab homine, & cædo, quaſi hominis cędium.

Species homicidij ſunt multæ. Nam aliud ſpirituale, aliud corporale: de ſpirituali verò ad præſens non eſt dicendum.

Sed corporale eſt quo homo occiditur corporaliter; & hoc dupliciter committitur; lingua, & facto. Lingua tribus modis: ſ. præcepto, conſilio, defenſione vel tuitione. Facto quatuor modis; ſ. iuſtitia, vt cum iudex vel iuſticiarius reum iuſtè damnatum occidit. Iſtud autem homicidium, ſi fit ex liuore, vel delectatione effundendi humani ſanguinis, licet ille iuſtè occidatur, iudex tamen peccat mortaliter, propter intentionē corruptam. Si verò hoc fiat ex amore iuſtitiæ, nec peccat iudex ipſum condemnando ad mortem, & præcipiendo miniſtro vt occidat eum; nec miniſter ſi iuſſus à iudice occidat condemnatum. Et peccat vterq; ſi hoc fecerint iuris ordine non ſeruato.

Neceſsitate: quo caſu diſtinguendum eſt vtrum neceſsitas illa fuit ineuitabilis, an non: Si autem euitabilis, & eam euadere potuiſſet occiſor abſq; occi ſione, tunc erit reus homicidij.

Si

Si autem ineuitabilis, quia occidit hominem ſine odij meditatione, in metu & dolore animi, ſe & ſua deliberando, cum aliter euadere non potuiſſet, non tenetur homicidij.

Caſu, ſicut per infortunium, cum quis proijcit lapidem ad auem, vel animal, & alius tranſiens ex inſperato percutitur, & moritur. Vel ſiquis arborem inciderit, & per occaſum arboris aliquis opprimatur, & huiuſmodi. Sed hic diſtinguendum eſt, vtrum quis dederit operam rei licitæ an illicitæ, vt ſi lapidem proijciebat quis verſus locum per quem conſueuerunt homines tranſitum facere : vel dum inſequitur quis equum, vel bouem, & aliquis à boue vel equo percuſſus fuerit, & huiuſmodi, hîc imputatur ei. Si verò licitæ rei operam dabat, vt ſi magiſter cauſa diſciplinæ diſcipulum verberauit, vel dum quis deponebat fœnum de curru, vel arborem incidebat, & huiuſmodi, & adhibuit diligentiam quam potuit, ſ. reſpiciendo, & proclamando, nec nimis tardè aut dimiſſè, ſed tempore congruo & ita clamoſè, vt ſi aliquis ibi fuiſſet, vel illuc veniſſet, potuiſſet aufugere, aut ſibi præcauere, non imputabitur ei. Idem iuris eſt de magiſtro non excedendo modum verberandi diſcipulum.

Voluntate, vt ſiquis ex certa ſcientia, & in aſſultu præmeditato, ira vel odio, vel cauſa lucri, nequiter & in felonia, contra pacem domini regis, aliquem interfecerit. Et fit aliquando huiuſmodi homicidium pluribus aſtantibus & videntibus, aliquando verò clanculum & nemine videnti, ità vt ſciri non poſsit, quis ſit occiſor : huiuſmodi homicidium dici poterit murdrum, ſecundum quod inferius dicetur.

Pœna verò homicidij duplex eſt, ſpiritualis videlicet & corporalis : ſpiritualis tollitur per pœnitentiam. Et occidit quis alium dupliciter : quandoq; lingua, quandoq; facto. Lingua, vt ſi quis diſſuadendo, retrahit aliquem à propoſito volentem alium liberare à morte. Et ſic aliquando indirectè facit quis homicidium. Pœna verò homicidij commiſsi facto variatur. Nam pro homicidio iuſtitiæ iuſta & recta intentione facto, non eſt aliqua pœna infligenda.

Si ſit aliquis qui mulierem pregnantem percuſſerit, vel ei venenum dederit, per quod fecerit abortiuum, ſi puerperium iam formatum vel animatum fuerit, & maximè ſi anima-

tum, facit homicidium (Yes contrarium tenetur. Fitz. cor. P. 263. & 146. Car a faire homicide, il est requisite, que le chose occise soit in rerum natura.) Possunt & multi culpabiles esse homicidij sicut & vnus, vt si plures rixati fuerint inter se in aliquo conflictu, & aliquis sit interfectus inter tales, nec apparet à quo, vel à cuius vulnere; omnes dici possunt homicidæ, & illi qui percusserunt, & tenuerunt malo animo percussum dum percussus fuerit. Item & illi qui voluntate occidendi venerunt, licet non percusserint. Item & illi qui non occiderunt, nec voluntatē occidendi habuerunt, sed venerunt ad præstandum auxilium & consilium occisoribus &c. Item & ille qui præcepit percutere & occidere, quia cum non sint immunes à culpa, immunes esse non debent à pœna.

I haue written the whole discourse, for that there is herein conteined the practise of most of these precepts concerning efficient causes.

Hærevnto may bée added also, our Essoynes de malo lecti, del creteine del eawe, &c. as standing all vpon the same grounds of violent and compulsiue causes, and therefore in themselues reasonable excuses of absence.

Ceux parols, Heyres, tantsolement font l'estate d'enheritance en touts feofmēts et graūts. Litleton pag. 1. for the sole cause. So agayne Littleton, fol. 166. a. Home ne voyt vnques que cest paroll, Defendemus, fuit en aſcun fine, mes tantsolement cest paroll, Warrantizabimus. Perque semble que cest paroll et verbe, Warrantizo, fait la Garrrantie, et est la cause del Garrantie, et null auter verbe en nostre ley.

For the destroying cause, Vide 47. E. 3. fol. vltimo. Nota, que diuorce poet estre per cinq; voyes, s. Causa professionis, prēcontractus, cōsanguinitatis, affinitatis, frigiditatis. Et nota, que apres diuorce causa professionis le feme serra endowe, et le heyre inherite: mes en auters cases el ne serra endowe, ne le heyre inherite. Here diuorce is a dissolution of matrimony, and the constitution of the one is the destruction of the other.

For instrumentall causes, sée 21. E. 4. 16. per Brigges: Qui fait per auter, fait per Luymesme; Come de seruant &c. et

et Fayrfax, la. 44. b. For voluntary auise and deliberation, 41. E. 3. 30. per Finche. Si deux sont vouche per lour fayt demesne, et al sequatur sub suo periculo l'un vient, et l'auter fayt defaut; et le tenant surmit que cestuy que fist defaut n'ad rien de fayre en value, il auera l'entiere garrantie vers cestuy que appiere, car fuit son folly de ioynder en garrantie oue cestuy que rien ad. Sicū feme sole ad title d'entre en terres, et prist baron, que suffer discent et ne entra, la feme serra barre del entry apres le mort son baron: car serra dit sa folly de prendre tiel baron, que n'entra en temps. Here the free choyse, will, and election taketh away all occasion of excuse.

Materiall cause.

The materiall causes, as also all other arguments Logicall, are not to bee tied onely to sensible or bodily matters: but generally to bee applyed to any whatsoeuer. bee it subiect to sence, or conceiued by reason. As, a man conceiueth in his mind or memory the Art of Logike or any other science, the matter whereof is their seuerall rules and preceptes, the forme, the due disposition of the same: and yet nether first nor last is subiect to sence, but onely vnderstoode by reason, and imprinted in the inward power of mans soule. The olde honest philosophers haue had many odde conceiptes and fantasticall imaginations touching this cause, as appeareth by Aristotle in the first of his Metaphysickes. For Thales thought the water was the materiall cause of all thinges, as the Mysticall fellowes and Pagan diuines thought ỹ Ocean, Thetis, and Stix to bee. Anaximenes sayde it was the ayre, Heraclitus, the fire, Hesiodus the confusion of the worlde, Pythagoras numbers, Plato litle and great, all whiche and others also are but derided of Aristotle, as though they had thus spoken of the Logicall materiall cause, which should bee generall to all thinges, and not rather of the material ground of naturall thinges.

Canons.

If the thing bee made, then the matter must needes bee. If the matter bee, the thing materiate may bee: if not, then it cannot bee, in secondary causes.

The matter sheweth the excellency or goodnesse of the thinges made thereof: for if the matter bee good, the thing made is good: if better, better: therefore in deliberation and consultation of dyet, of building, of weapons, of garments and such like, as also in praysing or dispraising of any thing made, there is an especiall consideration and regard had of the matter.

Theloall his definition of a writte contayneth both the materiall cause and others also. Un briefe est un formal letter ou epistre del roy, escript en le langue latyne, en perchemyne, selée ouesq; son seale, direct al ascun iudge, officer, minister, ou auter subiect, al suyte del roy mesme, ou al playnte et suyte d'auter subiect, commaundant ou autorisant ascun chose conteigne en mesme la letter de estre fait pur la cause brieffement en celle letter erpresse, que est d'estre discusse en ascun court le roy per la ley.

The fourth Chapter.

Of the formall and finall cause.

The cause before the thing caused, is as I haue already taught. Now followeth the cause in and with the thing caused, which is eyther the forme, or the end.

The forme is a cause by the which a thing is that which it is, and therefore by the forme thinges bee distinguished.

The forme is euer ingrauen, as it were, in and together with the thing formed, as the reasonable soule in man, and with man the selfe same instant.

The forme is eyther internall, or externall: Internall which is not perceiued by sence. Externall, which is subiect to sence. Externall is eyther naturall, which is ingrauen in euery thing naturally: or Artificiall, which Art hath framed and performed.

The naturall and internall formes of thinges bee hardly eyther known and vnderstode, or erpressed and made plaine.

The artificiall and externall, is much more easily both

conceiued

conceiued in reason, and expressed by woorde: and of such there bée many.

In August, Willy describeth the forme of his cup which hée layd against Perigots spotted lambe.

Then loe, Perigot, the pledge which I plight,
A Mazer ywrought of the maple warre,
Wherein is enchased many a faire sight
Of Beares, and Tygers that maken fierce warre.
And ouer them spread a goodly wilde Vyne
Entrayled with a wanton yuy twyne.
There by is a lambe in the Wolues iawes:
But see how fast runneth the shepheardes swayne
To saue the innocent from the beastes pawes,
And here with a sheephooke hath him slayne.
Tell me, such a cup hast thou euer seene?
Well mought it beseeme any haruest queene.

In February, Cuddy describeth the girdle hée gaue Phillis by the forme.

I wan thee with a girdle of gelt,
Embost with buegle about the belt.

And in the same Egloge hée layeth downe the accidentall and externall forme, together with some effectes of his bullocke.

Seest how bragge yond bullocke beares
So smirke, so smooth his pricked eares?
His hornes bene as broade as raynebowe bent,
His dewlap as lythe as lasse of kent.
See how hee venteth into the winde.
Weenst of loue is not his minde?

Maister Plowden: Fol. 15. b. vt supra in le materiall cause: Car le shaping et fesance del toge, est forme del toge.

The ende is a cause for the which, or for whose sake the thing is. Palinode in the fift Aegloge,

Good is not good, but if it bee spend:
God giueth good for none other end.

Thenot in the second Aegloge.

It chaunced after vpon a day
Th'husbandman selfe to come that way.

Of custome for to suruey his ground,
And his trees of state in compasse round.

The ende of goodes, is to bée spent: the end of the husbandmans going abroad, was to view his ground.

Maister Plowden: Fol. 18. a. Et pur ceo le scope et fine de chescun matter est deste consider principalment en toutes choses: et si le scope et fine del dit estatute est satisfie, donques tout le matter et lentent del matter est accomply. Et icy le substance et fine del dit estatute, et lentent del feasors de ceo fuit, que le roy auera le subsidie, et ceo solement fuit le scope et summe del dit estatute, et del intent del feasors de ceo. et si lagreément icy est sufficient a doner le subsidie, et de faire le roy deste en suertie de ceo, adonques il ensuist que lestatute et l'entent del feasors de ceo est performe et satisfie. Et que ceo issint est, ieo ay proue deuant; car lagreément garrant et autorize le roy del weyer la woade per son collector, a quel temps que plerra luy, et quant ceo est fait, le roy ad title de action, et issint est en suertie.

Fol. 59. a. Et issint chescun bener sur le terre ne'st entre. Car suit dit que Littleton en son lyeur tyent le ley destre, que contynuall clayme doyt estre fayt sur le terre, s'il oiast bener la. et en tiel case, sil vient sur le terre, et fayt clayme, et depart mayntenant, ceo ne serra en son disaduantage adiudg vn entre; car il auera assise del primer disseisin, et recouera damages del primer iour del assise: car son entent fuit de faire claime, et nyent de prender profit, ou de expeller le tenant tout outterment, et de custodier le possession: et issint lintent del bener sur le terre est destre respect.

Annotations.

The formall and materiall cause bée essentiall partes of the thing caused: the end and the efficient are not so.

The forme is alwaies made by the efficient, the matter is commonly prepared, not alwayes made by it, as the quill is the matter whereof a pen is made, here the maker of the pen, doth but order, polish, and prepare the quill, but hée altogether maketh the forme and fashion of the pen. And although forma bée effectum efficientis, yet it is causa formati.

Dicitur

Dicitur forma à formando, differentia verò quia differre facit: vna enim eademq; res est, etsi diuersa nomina: and according to these two names, hath Aristotle in the first of his Topiks assigned it two properties; The one for giuing essence and knowledge of the same essence, the other for causing difference: And in respect of the former, it is sometimes called, τὸ τί ἦν εἶναι, quod quid erat esse, as 1. post. Sometimes λόγος τῆς οὐσίας, ratio essentiæ, 1. de ortu animal: sometimes οὐσία τοῦ πράγματος, essentia rei, 1. Philo: sometimes λόγος εἰδικὸς καὶ οὐσιώδης, ratio specifica & essentialis, 4. Phil: sometimes εἰδοποιὸς, σύμπληρωτικὸς, συστατικὸς, specifica, completiua, constitutiua, as in Porphyry: and sometimes μορφὴ καὶ λόγος, forma & ratio: sometimes εἶδος καὶ παράδειγμα, species & exemplar, 5. Phil. In consideration of the latter propriety, it is commonly called διαφόρα, differentia, for that especially by the forme things differ one from another; so the formall cause of man is his reasonable soule, for this maketh man, to bee man, and to differ from all other thinges that bee not man. So euery naturall thing hath his peculiar forme, as a lyon, a horse, a tree, &c. the heauen, the earth, the sea, &c. So euery artificiall thing also, as a house, a shippe, &c. So things incorporall, as vertue, vice, &c. So in a word, whatsoeuer is, by the formall cause it is that which it is, and is different from all other things that it is not.

Onely the forme among all other causes is ὁμόγονος, simul congenita, extant at the same instant with the thing formed: so that there is a most necessary and reciprocall consequence betweene the forme and the thing formed. But now, as the vnderstanding of the formall cause causeth surest knowledge, so hardly can wee vnderstand what the formall cause is; which peraduenture made Democritus thinke that truth lay hidden in the bottome, and plunged in the deepe. Indeede wee generally conceaue and gather, that euery particular thing hath his peculiar forme, but what is the peculiar forme of euery particular thing, that we know not; or if peraduenture wee gesse at them now and then, yet hardly can wee expresse our conceits with labourſome and tedious circumlocutions. So that, for the most part things bee not knowne,

And if they bée in part perceiued, then haue wée no names for the thinges. Here therefore the auntient philosophers were wonderfully troubled, as Aristotle reporteth 2. Meta. Pythagoras would haue his numbers to bée ỳ cause of things, and that euery thing was an image or resemblance of numbers: and Plato altered their wordes a little, saying that Idæa was the forme, and that thinges formed were communications and participations of Idæas: of whome Aristotle concludeth thus, that they valdè simpliciter & imperitè egerunt, & bée seemed but nugari, & poeticas metaphoras loqui.

Canons.

IF you remoue the forme, it is impossible for the thing formed to consist.

Such is euery thing, as the forme permitteth it to bée.

The forme is the fountayne of actions.

The forme of euery thing is the especial part of ỳ thinge, and the alteration of the forme chaungeth the thing formed, and maketh it an other thing: but héere wée must distinguish betwéene the vniuersall chaunging of the forme, and the particuler alteration thereof. For if a house bée vtterly defaced, though it bée reedified of the selfe same timber and stone, yet it is not the same house, but if it bée but a litle decayed and so repayred in part, it remayneth the same house still, though in continuance of time, euery stick and stone bée altered by often repayring of it.

The formall cause is generall, as all other partes of Logike. For the declaration whereof I will purposely note out some examples of the formall cause in actions and exercises aswell as thinges corporall.

Formalitie in pleading is now partly abridged by the statutes of 32. H. 8. ca. 20. 18. Elis. ca. 14. and 27. Elis. but how much it was estéemed heretofore, sée 14. H. 8. 27. per Brooke Iustice. Car vn forme couyent d'estre tenus et vse, ou autrement touts choses serra en confuse et sans order. Car en trespasse couyent doner colour (et vncore le sentence n'est le melieur en le veritie del matter) pur ceo; est formalitie. Et a vne plée en l'affirmatiue couyent prender auerment: et si soit

ſolt en le negatiue, couyent concluder al negatiue, et ceo n'eſt forſq; formalitie : et formalitie eſt le pluis chiefe chole en noſtre ley.

And the booke of Entries ſtandeth all vpon formall precidents of declarations, barres, replications, reioynders, ſurreioynders, rebutters, iſſues, verdites, iudgements, executions, proceſſe, continuances, eſſoynes &c.

Brytton, whoſe booke was publiſhed in Edward the firſt both time and name. Fol 42. deſcribeth the order and forme of battayle, but ſomewhat diſcrepant from the forme deſcribed, 17. E. 3. and 19. H. 4.

In 11. H. 6. 7. the ioyning of battayle in a writ of right is ſolempnly ſet downe, betweene ſir Piers Colts and the Earle of Northumberland for the maner of Capenhow.

See 14. E. 4. 8. the forme of puniſhment called Fort et dure, pronounced in Newgate by Juſtice Needham. vide 8. H. 4. 2.

Finall cauſe.

Ramus in his French Logike placeth the end firſt, ſith, according to Ariſtotle in the ſecond of his Phyſikes, the ende is firſt in conceipt and conſideration, though laſt in execution. But in the laſt edition of his Latine Logike hee ſetteth it in the laſt place, reſpecting rather finem rei, then efficientis ſcopum & intentionem, which laſt reſolution of his I follow at this preſent, yet not ſo reſolutely, but that I can bee content to heare their aduiſe, who bid vs take heede that we confound not the finall cauſe with the thing cauſed : which wee ſhall the better do, ſay they, if wee conſider exactly the order and due coherence of the foure cauſes in the abſolute conſtitution of a thing cauſed. For firſt, the finall cauſe, the end, purpoſe, intent, drift, marke, or ſcope, as it were of the whole action, is propounded to the efficient, and ſo vrgeth and moueth him to prepare the matter, and apply the forme therevnto for the full accompliſhing of the enterprize : which beeing once performed, the efficient cauſe now ceaſeth, as hauing obteined that it ſought for. And this beeing thus atchieued, is not the finall cauſe, but the thing cauſed. As for example, I purpoſe to ſweate, and therefore I daunce : heere

the ſweating is not the finall cauſe, but the intent and purpoſe which I had to ſweate, is the cauſe that moued mée to daunce, and ſo cauſed mée to ſweate, which ſweating is the thing cauſed: and although in vulgar ſpéech, the vſe of a thing and the end of the ſame thing bée confounded, yet by art and reaſon they ſhould bée diſtinguiſhed, the one a cauſe, the other a thing cauſed. If any man obiect, that if wée ſay the end is onely the purpoſe of the efficient, then this place will bée reſtrained to ſuch things onely, as vſe reaſon, and can purpoſe, where all Logike muſt bée generall, and applyable as well to Non ens, as to Ens, to that which is not, as that which is: they aunſwere, that wée néede not take this woꝛd, purpoſe oꝛ deliberation ſo ſtrictly, as to apply it onely to reaſonable creatures, but generally ſay, that euery thing woꝛketh foꝛ ſome end and purpoſe, whether it bée by natures inſtinct, oꝛ voluntary conſultation. Oꝛ if this ſéeme moꝛe philoſophicall then religious, wée may ſay, that in all artificiall thinges, and ſuch naturall things as haue no deliberation, that which wée call the ende, is but the thing cauſed by them, and the cauſe finall is the purpoſe of God in naturall thinges, and the intent of the artificer in things that bée artificiall.

Et finis mouet efficientem, & cogitatio de fine: finis vt obiectum, cogitatio de fine, vt adiunctum agenti inhærens, ſayth Piſcator. Some others make the finall cauſe to bée nothing but a part of the efficient, and no diſtinct cauſe it ſelfe, ſith it onely moueth the efficient to foꝛward the operation.

The end is chiefe, oꝛ ſubooꝛdinate: chiefe, which the efficient deſireth foꝛ it ſelfe, as the couetous man Riches, and it is either vniuerſall, to the which all thinges in the woꝛld generally be referred, as Gods gloꝛy; oꝛ ſpeciall, whervnto euery thing in his kinde is referred, as the houſe is the ende of the builder, foꝛ hée ſéeketh no further. Subooꝛdinate is that which is not foꝛ it ſelfe deſired, but referred to the chiefe end.

Canons.

If the ende bée, then the thing muſt alſo be whole ende it is: and if the ende ceaſe to bée, then the thing whole ende it was, can no longer bée.

Euery

Euery thing is referred to his ende.

The end doth eyther allow or disallow euery mans action; Or thus, that is good, whose end was good, and contrarily: Sic *Aristotle* 3. Rhet. *Laco*, cum rationem de *Ephoratu* in iudicio redderet, rogatus, an ipse alios iure perijsse existimaret, assensus est: Ille verò, nonne hæc tu cum illis decreuisti? & ille assensus est: nonne igitur & tu (inquit) peribis? Minimè verò, inquit: illi enim pecunijs acceptis hęc commiserunt, ego verò nequaquam, sed ex sententia.

The end is more to bee desired, than those things that bee referred to the end. He that seeketh the ende, seeketh also those things that bee referred to the same end.

All the arguments that common Rhetoricians fetch from Honestum and Vtile, are for the most part derined from the end or finall cause, sith for the cause of these two, most things are enterprised. In like maner, the gesses and coniectures of Iudges are fet from the end, as, hee was most like to worke the mischiefe, who might haue any end or profit in practising of the same.

Whose vse is good, that is good, but not contrarily, the thing is bad, because it is abused.

The end doth not alwaies follow the efficient cause, eyther because the efficient could not accomplish the thing alone, or els because hee would not. Theloall. lib. 7. cap. 2. Le finall intent del chescun que pursuyte briefe, est, ou a recouerer seisin ou possession de terre ou tenement, ou d'auer chose dont home peut auer heritage, ou franktenement, ou terme; ou d'auer remedy et recõpence pur iniury et damage a luy auenue per le act, ou non feasance d'un auter, ou pur le non performance des contracts et obligations ou auters parts et causes que sont come contracts.

Home vient pur auower son atturney, cest presence ne serra dit apparance, car son intent, ne fuit d'apperer al briefe &c. 8. H. 7. 8.

Abuses of causes.

Sophistry, as I haue said elswhere, is no Logike: & therefore least I should iniury the art by ioyning sophisticall fallacians with Logicall institutions, I haue rather reserued

them to these annotations, then thrusted them in among the precepts. Some vse, I confesse, there may bée had of them (although I know, that who so throughly perceaueth the truth of this art, nédes to séeke no other meanes to auoyde these deceipts, sith Rectũ est index sui, & obliqui.) But if wé shall put downe euery thing in Logike, which hath any litle shew of profite therevnto; Grammer will be good Logike, because it helpeth vs to vtter ỹ which wé haue Logically conceaued.

The word, Sophista, was at the first, a title of commendation, and onely applyed vnto him that was a Philosopher or teacher of wisedome. But now it is become odious, as Tyrannus, and such like. Sophistry therefore is the abuse of Logike, deceiuing the simple with a glorious shew of counterfeit reasons, commonly called Fallacians.

Fallacians bée eyther in the word, or in the reason. Fallacians in the word bée of two sorts, some in a simple word, some in the coniunction of wordes. In a simple word bée three. The first is when vnusuall and vpstart wordes bée foisted in, as hée putteth his felicitie in circumpugnable goods, circumpugnabilibus bonis, meaning Riches, because men fight about them. Le seigneur des Accords in his Bigarrures, pag. 198. hath many of this making, although somewhat more tollerable, because of the ridiculous application. Ils font (saith hée, speaking of some French Carminificators) de petitelettes descriptionettes qui sõt fort agreableteis aux oreillettes delicatelettes, principallettement des mignardelettes damoisellettes, Come

Ma nymphe follastrelette,
Ma follastre nymphelette. And after
Ie vous vens une goutette,
Vne goute clairelette:
Vne claire goutelette,
Qui vient d'une fontenette,
Miguarde fontenelette,
Fontaine mignardelette. &c.

Mignarde

And page 65. of another sputatilicall gose, he saith thus. Vn certayne predicant qui vouloit Pindariser en chaire, et choisir des mots courtisans, pour applaudir a quelques damoiselles

damoiſelles fraiſchemẽt reuenues de la cour, auoit couſtume de inuenter des mots, et entre autres, il appelloit la deſtinée, Fatũ in latyn, fat in Francois, ſur quoy vn gentil perſonage rencontra ce diſtique

Frere Iehan Chaſſepoi, tu te romps trop la teſte
De nous preſcher le fat eſcrit par *Ciceron*:
Ne t'eſchauffe pas tant, va, tu n'es qu'vne beſte,
Pour bien monſtrer le fat, oſte ton Chapperon.

The like abſurditie would it bée for a man of our age, to affectate ſuch wordes as were quite worne out at héeles and elbowes long before the nativitie of Geffrey Chawcer.

The ſecond is, when doubtfull and ambiguous words bée vſed, as in thoſe verſes of Martiall, where, tuus, is eyther thine by bargayne, or by inuention.

Carmina Paulus emit; recitat ſua carmina Paulus:
nam quod emis poſſis dicere iure tuum. And that,
All the maydes in Camberwell
may daunce in an egge ſhell. Of a little village by London, where Camberwell may be taken for the Well in the towne, or ẏ towne it ſelfe. So that, Ware and Wadeſmill bée worth al London. Where Ware is either ẏ towne Ware, or els merchandize. So laſtly, the Mayre of Earith, is the beſt Mayre next to the Mayre of London. Where the towne, God knowes, is a poore thing, and the mayre thereof a ſély fellow, in reſpect of the Mayres of diuers other cities, yet it is the very next to London, becauſe there is none betwéene.

Accords pag. 96. vne ieune damoiſelle interrogée en quelle eſpece d'oyſeau elle deſireroit veoir ſon amy, ſi nous eſtions aux temps des Metamorphoſes, elle dit, qu'elle le voudroit veoir en Phaiſant: vrayement vous auez raiſon, dit dame Iaquette caquillon, il ne ſcauroit eſtre plus agreable qu'en le faiſant. Heare not the word written, but the voyce and ſound cauſed the ambiguitie.

The third and laſt is, when ſtore of Metaphorical words is the cauſe of a ridiculous obſcuritie, as if a man meaning to bée briefe, ſhould promiſe that hée would gallop ouer al the reſt of his text. Wherefore Ariſt. reprehended Plato for that his ſpéeche was obſcure and ambiguous by reaſon of Metaphors.

When any of these three fallacians bée vsed, wée may say with him in Tully, Sputa quid sit, scio: Tilica, nescio. Wée may desire him to speake better English.

In the coupling or coniunction of wordes bée two: the first is Amphiboly, when the sentence may bée turned both the wayes, so that a man shall be vncertayne what waye to take, for this is the signification of the gréeke worde Amphiboly, and this fallacian commeth not from the diuers signification of any one word, but from the ambiguous construction of many wordes, as that olde sophister the Deuill deluded Pyrrhus by giuing him such an intricate answere.

Aio te, *Aeacida*, Romanos vincere posse.
I now foretell the thing to thee
which after shalbe knowne;
That thou, king *Pyrrhus*, once shalt see,
the Romaines ouerthrowne.

Where this word, ouerthrowne, may eyther bée the nominatiue case and appliable to king Pyrrhus: or the accusatiue, and attributed to the Romaynes. The like is that giuen to Crœsus.

Crœsus Halyn penetrans magnam peruertet opum vim.

Where hée hoping to haue destroyed Cyrus and the Persian power, ouerturned his own estate, as Herodotus reporteth. Such an one was that also giuen to the countesse of Flaunders concerning the battell betwéene her sonne Ferrande and king Philip, Que le roy seroit abatu, foulle aux pieds des cheuaux sans sepulture, et Ferrand receu a Paris en grand pompe et triomphe apres la victorie. Where the king, although troden downe, yet dyed not, but ouercame, and triumphed at Paris ouer Ferrande, who was then taken prisoner contrary to the expectation of the Countesse. Cardan de Martin Abbot of Assello, had this verse ouer his gate.

Porta patens esto nulli. Claudaris honesto.

Where, by the error of the Paynter, the poynt béing made after, nulli, caused the Pope which roade that way, to displace Martyn, and preferre another to his rome, who reteyned the verse, but altered the poynt, & put it immediately after esto, thus. Porta patens esto. Nulli claudaris honesto.

Where-

Whereupon theſe verſes went together.

Porta patens eſto. Nulli claudaris honeſto.
Ob ſolum punctum caruit *Martinus Aſello.*

The verſe of it ſelfe is very ambiguous, if the poynt bee altogether omitted, Porta patens eſto nulli claudaris honeſto.

The ſeconde is in the vnorderly expounding of the words, as

No ſicknes can bee health:
Dido is ſicke,
Therefore ſhe cannot be whole.

For if you turne the words into good order of expoſition, the falſenes of the propoſition will eaſily appeare, thus, No ſicke body can be whole.

Thus much of ſuch fallacians as bee in the words eyther ſeuered or conioined: which indeed are rather Grammaticall and Rhetoricall than belonging to Logike: Thoſe that are in the reaſon be more Logicall: whereof ſome belong to Inuention, ſome to Diſpoſition.

Fallacians of Inuention are eyther common to all the places, or peculiar to ſome certaine places.

Common to all bee two. The firſt is called, Petitio principij, the requeſting of the thing in controuerſie: when, to prooue any thing, wee ſeeke to haue, eyther the ſame in effect graunted vs, or ſome other thing as doubtfull. Petitio principij then, is eyther when the ſame thing is proued by it ſelfe, as, The ſoule is immortall, becauſe it neuer dyeth: Or when a doubtfull thing is confirmed by that which is as doubtfull, as

The earth mooueth,
Becauſe the heauen ſtandeth ſtill.

The ſecond is, Superfluitie: eyther when wee caſt in things impertinent: or els in vnneceſſary repetitions of the ſame things.

For the firſt, that may ſerue for an example, which Tully hath in his ſecond booke of Diuination: as if a phyſitian ſhould commaund his patient to take ſuch a beaſt, as is bred of the ground, walketh on graſſe, carrieth her cottage, and wanteth bloud, whereas hee might with leſſe labour,

and to better purpose haue willed him take a Snaile, which hée calleth

Terrigenam, herbigradam, domiportam, sanguine cassam.

To this example you may adde that of Martiall, as more conuenient. lib. 6.

Non de vi, neq; cæde, nec veneno,
Sed lis est mihi de tribus capellis:
Vicini queror has abesse furto,
Hoc iudex sibi postulat probari.
Tu Cannas, Mithridaticumq; bellum,
Et periuria Punici furoris,
Et Syllas, Marioſq; Mutioſq;
Magna voce sonas, manuq; tota.
Iam dic Posthume, de tribus capellis.

Much like as if a preacher in expounding a text of charitie, should talk out his houre-glasse, in discoursing of Bell the Dragon of Babylon. To such fellowes wée may say, turne to your text, or Iam dic Posthume de tribus capellis.

For the second, which is vnnecessary repetition of the same thing, this shall suffice, that when I haue generally put downe the nature of an argument, it were sophisticall to repeate the same in euery particuler, as, when I haue once sayd generally, that an argument is that which is affected to argue, what néede I in the particuler discourse of a cause to say, a cause is that which is affected to argue.

Now let vs come to the particuler fallacians of seuerall places. And first for the causes. It is sophisticall to argue from that which is no cause: as if it were a cause. So Sinon the false caytife fayneth a cause why the wodden horse was builded.

Hanc pro Palladio moniti, pro numine læso,
Effigiem statuêre, nefas quæ triste piaret.

It is, and alwayes hath béene a common practise among lewd men, to pretend counterfaite causes to cloake their malitious intent, and disgrace other mens good meaninges. The true cause therefore must bée carefully distinguished from the shadow ouercast: Arist. 2: Rh. à non causa quasi causa, quippe propterea q; simul, aut post eam euenerit: quod enim

enim post illam est, æquè ac propter illam accipiunt, maximeq; qui in republica versantur, vt *Demades*, *Demosthenis* politiam causam calamitatum omnium extitisse, quia post eam bellum est excitatum.

Also in efficient causes, the diuers kindes of working must bee diligently considered, as, what causes can worke alone, what require the helpe of others, what worke necessarily, what voluntarily, and so forth.

The fift Chapter.

Of the thinge caused.

THe thing caused is that which is made by the force of all the causes, which vsually, although not so properly, is called the effect.

Howsoeuer any thing bee altered, moued or changed, the motion, and the thing moued, or chaunged, belong to this place, and are called effects, or thinges caused: as also, sayinges and writinges, thoughtes and all cogitations, although neither vttered nor accomplished.

Matter of praysing and dispraysing commonly is fet from this place. So in Februarie, Thenot telleth how the Briar made a pitifull complaint to the husbandman, dispraising the Dake, and exclaiming against it, by reason of his iniurious dealing: which hee at large putteth downe to incense the husbandman against the Dake.

How fals it then that this faded oke,
Whose body is feare, whose braunches broke,
Whose naked armes stretch vnto the fire,
Vnto such tyranny doth aspire?
Hindring with his shade my louely light,
And robbing me of the sweet suns sight?
So beate his olde boughs my tender side,
That oft the bloud springeth from wounds wide.
Vntimely my flowers forced to fall,
That bene the honour of your coronall.
And oft he lets the cankred wormes light

Vpon my braunch to woorke me more ſpight.
And oft his hoary lockes downe doth caſt,
Wherewith my freſh flowers bene defaſte.
For this, and many more ſuch outrage,
Crauing your goodhyhead to aſſwage
The rancorous rigour of his might,
Nought aſke I but onely to holde my right.

In May Piers prooueth the ſhepheards to bee euill, by their effects, thus:

Thoſe faytors little regarden their charge,
While they, letting their ſheepe run at large,
Paſſen their tyme that ſhould be ſparely ſpent,
In luſtyheade and wanton merryment.
Thylke ſame bene ſheepheards for the deuils ſted,
That playen whiles their flocks be vnfed.

In the ſame Aegloge Palinode ſetteth forth the effectes of youth agreeable to the pleaſantnes of the time.

Youths folke now flocken in euery where
To gather May buskets and ſmelling brere,
And home they haſten, the poſts to dight,
And all the kirke pillers ere day light,
With hawthorne buds and ſweet Eglantine,
And gyrlonds of roſes, and Sops in wine.

In July, Thomalin prayſeth Chriſt the great ſhepheard, by his effectes.

O bleſſed ſheepe, ô ſheepheard great,
that bought his flocke ſo deare,
And them did ſaue with bloudy ſweat
from Wolues that would them teare.

In the eight Aegloge Piers rehearſeth the effects of loue, in theſe wordes.

Ah ſone, for loue does teach him climbe ſo hye,
And lifts him vp out of the lothſome myre.
Such immortall myrrour as he doth admire,
Would raiſe ones mynde aboue the ſtarry ſkye.
And cauſe a captiue courage to aſpire,
For lofty Loue doth loath a lowly eye.

Colyn in December repeateth the paſtimes and effectes of his youth in theſe verſes.

Whylom in youth, when flowrd my ioyfull ſpring,
Lyke ſwallow ſwift I wandred here and there.
For heate of headleſſe luſt me ſo did ſting,
That I of doubted danger had no feare.
I went the waſtfull woods, and forreſt wyde,
Withouten dread of wolues to bene eſpyde.

I woont to raunge among the mazy thicket,
And gathered nuts to make me Chriſtmas game,
And ioyed oft to chaſe the trembling pricket,
Or hunt the hartles hare till ſhe were tame.
What wreaked I of wintry ages waſte?
Thoe deemed I my ſpring would euer laſte.

How often haue I skaled the craggy oke,
All to diſlodge the rauen of her neſt?
How haue I wearyed with many a ſtroke
The ſtately wallnut tree? the whyle the reſt
Vnder the tree fell all for nuts at ſtrife,
For ylike to me was libertie and life.

And ſo after, in the ſame pitifull lamentation, the effectes of his ſommer and winter bee ſet downe.

But in March, Thomalins **long tale of** Cupide, **hath almoſt nothing els, but a rehearſall of his owne dwinges and** Cupids. **The narration is this.**

It was vpon a holyday
When ſheepheards groomes han leaue to play,
I caſt to go a ſhooting:
Long wandring vp and downe the land
With bow and bolts in eyther hand
for byrdes in buſhes tooting.
At length within an yuy tod,
There ſhrowded was the little god,
I heard a buſie buſtling.
I bent my bolt againſt the buſh
Liſtning if any thing would ruſh,
But then heard no more ruſtling.

Thoe peeping close into the thicke,
Might see the moouing of some quicke,
Whose shape appeared not.
But were it fayry, feend, or snake,
My courage earnd it to awake,
And manfully thereat shot.
With that sproong foorth a naked swayne,
With spotted wings, like peacocks trayne,
And laughing lope to a tree:
His golden quiuer at his backe,
And siluer bow which was but slacke,
Which lightly he bent at mee:
That seeing I, leueld agayne,
And shot at him with might and mayne
As thicke as it had hayled:
So long I shot that all was spent.
The pumy stones at last I hent
And threw, but nought auailed.
He was so wymble and so wight,
From bough to bough he stepped light,
And oft the pumyes latched.
Therewith affrayd I ran away,
But he that earst seemd but to play,
A shaft in earnest snatched:
And hit mee running in the heele;
For then I little smart did feele,
But soone it sore increased;
And now it rankleth more and more,
And inwardly it festreth sore,
Ne wot I how to cease it.

Maister Plowden: Fol. 163. a. Et certes, les Cloysterers communement en feasant lour leases et faits, auoyent vn forme, lequel ils cy prescisement voile tener, et pursuer, que ils voillent, marrer tout, pluistost que alterer lour custome: et illint purceog; ils ne voilent encliner lour forme al ley, mes voilent auer le ley a incliner a lour vsage, ils destroyeront le force de plusours fayts.

Annotations

Annotations.

This argument of the thing caused conteyneth not onely dædes and wo⁊kes, but also thoughtes, and wo⁊des, counsayles and deliberations, and all motions whatsoeuer. Parmenio the father, and Philotas the sonne, were both put to death fo⁊ suspicion of treason against Alexander: Where, their cogitation and compalling of their Souereignes death, were such effectes as were plagued by death. Fo⁊ like occasion also were Lentulus, Cethegus and other complices of Catyline b⁊ought to confusion.

Yet when sayinges, w⁊itinges, counsayles, and deliberations bée b⁊ought in as testimonies, then are they argumentes bo⁊rowed, assumpta aliunde.

Canons.

Wée commend men by their causes and adiuncts, as fo⁊ their noble auncesto⁊s, great possessions, &c. but especially by reason of their effectes, as fo⁊ that they did this o⁊ this &c.

Nam genus, & proauos & quæ non fecimus ipsi,
Vix ea nostra voco.

And as fo⁊ Riches, perinde sunt, as hé that vseth them: good, if hé apply them well: bad, if otherwise.

If the thing caused bée, then the cause eyther is o⁊ was, but not alwayes contrarily.

Such as the thing caused is, such commonly is the cause.

That which is attributed, o⁊ not attributed to the thing caused, must bée applyed o⁊ not applyed to the cause.

Fit. Cor. 22. E. 3. p. 26. Thorpe recita coment vn gaoler bient al gaole oue vn lanterne en sa maine a beier ses p⁊isoners, queux auoyent deb⁊use lour fers, et eskoyẽt touts p⁊ests d'auer occise luy, et batoyent et naufroyent luy malement: mes il auoyt vn batchet en sa maine, oue quelle il occist trois de eux, et puis eschapa, et fuit aiudge per tout le counsell, que il auoyt bien fayt.

Stanford: lib. 1. ca. 9. Nota, que en auncient temps la volunt fuit cy materiall, que il fuit repute pur le fait. Fit. Cor. 15. E. 3. P. 383. ou vn compassant le mo⁊t d'auter, luy naufra cy grieuousement, que il luy lessa giser pur mo⁊t, et pius s'en-

sua, et l'auter reuiua, et non obstant, fuit aiudge felony, eoq; quant sa volunt apiert cy ouertment de luy auer tue, voluntas reputabitur pro facto et oue ceo accorda Bracton qui dit, In maleficijs spectatur voluntas & non exitus, & nihil interest vtrum quis occidat, an causam mortis præbeat. Mes le ley n'est issint a cestiour. Car il doyt mozir en fayt, auant que il serra aiudge felony. Et si home ferist auter oue intent de luy bater, mes nemy a luy tuer, vncoze sil mozust de tiel bater, il est felony en luy que ferist: perq; a cest iour, home peut conuerter le dit tert de Bracton, et dire, q Exitus in maleficijs spectatur, & non voluntas duntaxat.

Elenchs.

Martiall vseth this argument sophistically in his first booke.

Extemporalis factus est meus Rhetor,
Calphurnium non scripsit, & salutauit.

As though this were an affect of an extempozall Rhetoz, to salute a man by name without pzemeditation. But here hys meaning was to bée merry, in taunting the man foz his ill memozy, who could skarce remember his familiar friendes name, vnlesse hée had wzitten it befoze, and learned it without booke.

The sixt Chapter.

Of the whole, part, generall, speciall.

HItherto of the first diuision of argumentes fully agreeable, in the cause and the thinge caused. Now followeth the second. Secondly therefoze the argument fully agreeable is eyther the whole and his part, oz els the generall and his speciall.

The whole is that which conteyneth partes: the part is that which is conteyned of ỳ whole. The whole is integrall, oz vniuersall: The whole integral is that which hath his essence oz béeing of the partes, as Logike hath two partes, exposition of argumentes, and disposition of the same, and of these two parts the whole essence and nature of Logike consisteth. So a messuage is made of two partes, del terre et

structure.

ſtructure. And heere the part is called a member, and is that which giueth eſſence to the whole, as Expoſition and Diſpoſition in reſpect of Logike, terre and ſtructure in reſpect of a meſſuage.

The whole vniuerſall, called the general, is ſuch a whole as giueth the eſſence or being to his ſpecials; as, an Inherent argument, is the generall, conteyning originall arguments, and thoſe ỹ are ſecondary as his ſpecials. For here an inherent argument is a whole eſſence, which doth equally perteyne to originall arguments, and ſuch as are ſecondary.

The ſpeciall is a part of the generall, as arguments firſt and ſecondary are ſpecials of an Inherent argument, as being parts put vnder it indifferently and equally or alike.

The general is eyther moſt generall or ſubalternall, the ſpeciall is either moſt ſpeciall or ſubalternall, that is, put vnder.

The chiefe or moſte generall is that which hath no generall aboue, As in Logicall Inuention, an argument, is the moſt generall, comprehending both Inherent and borrowed argumentes vnder it.

The generall and ſpeciall ſubalternall, or vnder another, are thoſe which may bee in diuers reſpects both generals and ſpecials: generals, in reſpect of their inferiors; ſpecials, in reſpect of their ſuperiors, as, a cauſe, is a ſpeciall in reſpect of an argument fully agreeable: but it is a generall in reſpect of the materiall or formall cauſe.

The moſt ſpeciall is that, which cannot be deuided into ſpecials, as this or that ſinguler materiall or formall cauſe conteining none other vnder it.

Generals are certayne reſemblances of cauſes in themſelues comprehended; as ſpecials are of effects. Speciall examples referred to their generals, belong to this place.

Annotations.

HOttoman. Totum & partes vtrum prius an poſterius ſunt, anne ſimul? primum diſtinctio adhibenda eſt, vt aliud ſit totum naturale, veluti arbor, fundus, auis, equus: aliud artificioſum, veluti domus, nauis, currus. ſi naturale totum eſt, ve-

riſsimum eſt quod *Ariſtoteles* libro de natura octauo ſcribit, prius eſſe, & naturæ, & temporis, & rationis ordine, id quod perfectum eſt, eo quod eſt inchoatum. ſin autem artificioſum eſt, tum eiuſdem *Ariſtotelis* monitu, altera diſtinctio adhibenda eſt, vtrum ſubtiliter & artis ratione, an populariter ex ſermonis conſuetudine diſſeratur. Nam quia ſubtili ratione eâ demum pars verè propriéq; dicitur, quæ ſuo munere fungitur, fungi autem ſuo munere, niſi ſuo toti inhærens, non poteſt, certè totum & pars naturæ ac temporis ordine ſimul ſint neceſſe eſt. Nam vbi eſt domus, ibi neceſſe eſt eſſe tectum, & vbi tectum reuera tegens, ibi neceſſe eſt eſſe domum: vbi currus, ibi rota; & vbi rota reuera, & actu voluēns eſt, ibi currus: ſin autem populariter loquamur, & homonymia, id eſt, communione nominis abutamur, tùm verò pars dicetur eſſe prior, totum verò poſterius, vt area, quam iuris conſulti potiſsimam domus partem appellant, priòr eſt ædificio: & fundus priòr vitibus, aut arboribus, aut fructibus.

Canons of the part.

If you put downe or affirme all the eſſentiall partes, you muſt alſo put downe the integrall it ſelfe. But if you put downe one, or ſome of the parts onely, you cannot therefore put downe the whole; for the partes, not ſeuered, but all ioyntly, make vp the nature of the whole.

If you deny or take any one eſſentiall parte away, the whole is alſo gone.

Of the Integrall.

Prohibitus à toto, prohibitus eſt à qualibet parte.

He that hath the whole, hath alſo the principall or eſſentiall partes.

Although yée put downe all the parts, yet vnleſſe they bée conioyned, the whole will not neceſſarily follow.

If you deny the whole, all the partes are not therefore ſtraightway denyed, vnleſſe you meane, that the whole béeing gone, the remnant is not properly to bée called a parte, Vt non eſt tectum, niſi tegat, &c.

7. H. 7. 8. a. b. 20 acres fueront agrée d'eſtre touts temps parcel del manor, Ergò ſil deny ſeiſie del manor, il deny ſeiſie des 20. acres.

That

That which agréeth with the whole Integrall, must also agrée with the parts conioyned, but not seuered.

If the whole bée not attributed to any thing, it will not follow, that therfore no part should bée applied vnto it.

The whole Integrall cannot bée affirmed of any one of his parts: for a part is not the whole: but all the parts together make the essence of the whole. But the generall may bée affirmed on one speciall, for that the whole nature and essence of the generall is in euery one of the specials, so that the speciall is the same thing indéede with the generall. (although not in such ample maner) or rather a patterne and resemblance of the generall. Yet, as the speciall conteyneth in it somewhat more than the generall (I meane, his proper formall cause moreouer and besides that hée had of his generall) so the generall comprehendeth vnder it more than one speciall; as béeing therefore common and indifferently applyable to many, because it is abstract from all, and not determinately bound to any. Whereupon they say in schooles, Genus abstrahit ab vtroq;, vt posit esse vtrumq;, and conteyneth vnder it, not in it, repugnant specials, according to Porphyry. Yet, notwithstanding all this, you may affirme the Integrall on his parte in a simple ariome, so that this worde, Part, bée added therevnto, as, Inuention is a part of Logike, the body is a part of man. Integrall.

21. H. 7. 21. per Fineux, & Tremayle Iustices, le person auera trespas de arbres coupes et emportes en le cimitorie, et d'entry et infreindre del eglise, car l'eglise, le cimitorie, et les dismes sont le Rectorie. Generall.

Litleton. pag. 80. Si soit rent, il serra rent seruice, charge ou seck, mes n'est, &c. Ergo. Et pag. 90. Chescun que ad franck tenement, ad del fée, del tayle, del pur vie, del auter vie: mes n'est illint icy. Ergo. Generall.

21. E. 4. 79. Si essoine gist pur corporation, tùm vel hoc vel illud, &c. sed nec l'essoyne de mal vener gist pur ceo, nec de malo lecti: car ceux excuse defaut, et ils ne poient appearer in person; et ils touts ne serront sicke ensemble: nec de seruitio, nec de vltra mare, nec de terra sancta, car ils ne serrõt intendes d'estre touts in tiel case, Ergo nul essoin gist pur corporation.

In assise, le pl. dit, que le terre est tenus d'un tiel, come de son manor de D. que est auncient demesne: le def. in maner confesse ceo, et tamen il prist general auerment, que parcell del mesme le manor, le quel il ad conus d'estre auncient demesne, serra franche fée, sans monstre coment per matter speciall; que n'est reason, car chescun chose serra intende del mesme le nature, come le chose est, dont il est parcell. Sic hic le manor de D. est conus d'estre auncient demesne, & sic per consequens serra intende, que tout ceo que est tenus del dit manor, serra del mesme le nature prima facie. 3. H. 6. 47. a.

Generall. Speciall.

The generall is nothing els, but a multitude or vniuersality of thinges like in essence, or one like essence in many thinges.

Hottoman. γενος est (vt *Zeno* apud *Laertium* definit) πλείονων ἐννοημάτων σύλληψις. Itaq; plures cognati qui sanguinis eiusdem communione inter se cohærent, quam ab vno eodēq; capite duxêrunt, idcirco à Græcis appellantur ὁμόγενες vel σύγγενες, cum alij, qui gentis ac stirpis alterius sint, ἑτερόγενες vel ἀλλόφυοι, alieni & extranei nominentur. So that this word, Genus; is Metaphorically.

The higher you ascend, the more generall thinges bée: the more generall thinges bée, the fewer particuler proprieties are they tyed vnto: and therefore the moste generall doth agrée to most particulers. But, the lower you descend, the more is alwayes in particularitie comprehended in the words, so that they can not bée applied to so many.

The generall precepts put downe in all Artes, were first inuented by the induction of many particulers and specials.

The generall béeing affirmed vniuersally, euery one of his specials must also necessarily bée affirmed. But if the generall bée but indefinitely, simply, or vndeterminately put downe; some one of his specials must indéede bée put downe also, and that necessarily, but no certayne one aboue the rest, but onely contingently, as If there bée any driggle draggle in Shrewsbury thée must bée eyther Jenny Dymmocke, or some other: this is necessarily true: but it is but contingent

to

to ſay, that if there bée any, it muſt néedes bée thée: for there may be many others alſo.

Generi per ſpeciem derogatur. Nam qui de vna aliqua ſpecie loquitur, is cæteras ſub eodem genere contentas ſpecies non diſſimulanter excludit, ſic legatum ſpeciale detrahit generali.

Denie the generall, howſoeuer you liſt, and all his ſpecials bée denyed.

Whatſoeuer is attributed to the vniuerſall nature of the generall, muſt bée giuen to the ſpecials. But there may bée many thinges applyed to the indefinite nature of the generall, which cannot bée aſcribed to any of his particulers, vnleſſe the thing bée common both to the generall and ſpeciall.

Of the ſpeciall.

The ſpeciall doth onely conclude affirmatiuely, vnleſſe all the ſpecials bée denied togither.

If you put downe one, more, or all the ſpecials, you alſo put downe the generall, for that the nature and eſſence of the generall is in euery of the ſpecials. If you deny one onely ſpeciall, you deny the whole generall in his moſte ample and largeſt vniuerſalitie: but not as hée is indefinite. But if you deny euery ſpeciall, then the generall is taken away, howſoeuer you meane it.

Whatſoeuer agreeth with the ſpecials, agreeth alſo with the generall: if ſo bée that the thing applyed bée common, and not peculierly proper to one ſpeciall alone, as apud Tribalos patrem immolare eſt laudabile, ergo ἁπλῶς. *Hottoman.*

Quod vni ſpeciei non conuenit, non continuò generi indefinito non conuenit, vt, ſi homo eſt animal, quod non eſt animal id non eſt homo: ſed non, ſiquid non ſit homo, id continuò ſequitur, non eſſe animal. Nam etſi contrariorum contraria ſunt conſequentia, tamen differentiæ cauſa hic eſt in negatione poſita, quæ cum priuatio ſit; affirmatione, quæ habitus eſt, ſemper eſt deterior neq; parē cum illa vim habet.

Species eiuſdem generis ſunt ſimul natura: eſt tamen aliqua differentia ordinis, vt in arte ſpeciem hanc illi preponas.

The Grecians call the moſt ſpeciall, ἄτομον, Indiuiduum, quod diuidi in partes corporatas ſine interitu non poteſt. Nam

si totum in partes distrahatur, nulla pars erit totum, neq; totius nomine appellari poterit. **There was neuer any Logician before Ramus that durst absolutely pronounce an** Indiuiduũ, **as** Socrates, **to bee a speciall, or a man to bee a generall: yet I could neuer see eyther good reason, or reasonable experience to the contrary.** Neq; enim audiendum est quod dici videtur à *Porphyrio*, & nonnullis præterea in *Aristotelea* bibliotheca locis, indiuidua non differre forma essentiali, sed proprietate accidentiũ, vt mas, & fœmina: quæ accidentia in *Hermaphrodito* miscentur. Nam tum detractis (quod omnino saltem cogitatione fieri potest) accidentibus, omnes homines essent vnicus & singularis homo: imò neq; deus, neq; dæmon, neq; homo, neq; vlla prorsus essentia esset (quod est ab *Aristotele* nominatim improbatum, cum idealem hominem eiusmodi derideat) sed accidentia sola. *Talæus.*

Hottoman. Plato ea demùm esse verè ac propriè dicebat, quæ à sensibus remota, tantùm ratione & animo percipierentur, propterea quod semper vniusmodi essent, neq; ortũ neq; interitum haberent: cum indiuidua infinita, fluxa, & caduca essent, orirenturq; & occiderent, nec diutiùs vno & eodem statu essent. *Aristoteles* verò nullas putabat esse extrinsecus substantias, sed intellectam plurimorum inter se differentium similitudinem, vel genus, vel speciem appellabat. Primus *Aristoteles*, ait *Cicero*, species labefactauit, quas mirificè *Plato* fuerat amplexatus, vt in ijs diuinum quiddam esse diceret. Ac de vtrisq; istiusmodi substantijs idem *Cicero* in lib. de vniuersitate ex *Platonis Timæo* ita scribit.

Quid est quod semper sit (hęc idæa est) neq; vllum habet ortum. Et quod gignatur (hoc indiuiduum est) nec vnquam sit. Quorum alterum intelligentia & ratione comprehenditur, quod vnum semper atq; idem est: alterum quod affert opinionem per sensus, rationis expers, quod totum opinabile est, id gignitur & interit, nec vnquàm esse verè potest?

Vtrius igitur illorum probabilior sententia videtur? Non est humilitatis nostræ tantam inter summos omnium philosophos controuersiam disceptare. Magis tamen aliquantò ad notionum nostrarũ rationem accommodata *Platonis* sententia videtur: quippè cum satis constet, non omnes notiones ex oblata

lata extrinsecus indiuiduorum corporum impulsione existere, sed quasdam per se constare; neq; vel aliundè originem habere, vel alio quàm suo ac proprio fundamento niti. Quo in genere sunt intellectæ res omnes, vt quantitates & qualitates, veluti longitudo, latitudo, & altitudo. Item iustitia, temperantia, eloquentia: Item morbus, valetudo, imbecillitas: quæ si in subiecto aliquo insunt, per se tamen, & tanquam auulsæ & abstractæ considerantur. Infra.

Videsnè quam sutores & calceolarij formam calceorum appellant? Nimirùm lignum oblongum, calcei instar, proportione aptum, atq; incisum. At ijdem formam calcei aliam in mente atq; intelligentia impressam atq; insignitam habent: quæ vna verè propriéq;, tum Idea, tum forma, & est, & dici debet. Ad quam, tanquam pictores ad exemplar, suam picturam; ità illi opus suum dirigunt. Forma igitur calcei lignea subiectum est: species in mente insita, auulsa atq; abstracta est.

In an other place more plainly.

Iubent enim (s. *Plato* & *Aristoteles*) poni Calliam procul ad nos longo interuallo venientem. Ea species extrinsecus oblata sensibus continuò generis vniuersi notitiam in animo informat. Primùm enim corpus esse intelligimus, mox, vbi propiùs accessit, animal: tùm hominem: ad extremum, Calliam. Sic, qui in statione sunt, & procul aliquem venientem intuentur, primum corpus esse animaduertunt; secundò, ex cursu animal esse iudicant: tertiò, equitem: quartò, ex colore, amicum vel hostem: postremò, Titium, vel Sempronium. Atq; hi sunt nimirùm notionum & intelligentiarum gradus.

So much I haue borrowed of Hottoman, concerning generall Idæas: to little for Quidditaries: penough for our purpose. Hée that desireth more shalbe sure to finde to much, if hée doe but once shew himselfe willing to entertaine those euerlasting praters de vniuersalibus.

Morrell in July, to enforce the generall commendation of his, bringeth in speciall examples, as saint Michaels mount, S. Brigets Bower, Mount Oliuet, Parnassus, Ida: &c.

Before I goe further, it were expedient to yéld some reason why I seuer the generall, speciall, whole and parte from the tractate of diuision, where Ramus placed them. For

Genus sayth Talęus, significat causam speciei, & species ideò significat effectum generis. itaq; originem suam è primis argumentis ostendunt, quotiesq; genus explicatur à speciebus causa arguitur ex effectis; quoties contra species arguitur è genere, effectus arguitur è causis. Alia tamen est hic inuentionis via, quàm illic. Causa enim & effecta subtilius illic explicantur, hic comprehenduntur. **Which yet can hardly make me beleeue that they bee argumentes made of the first, as they should bee, if they were secondary argumentes: For I call that secondary which is made of some originall, as diuision and definition is. For as for Coniugates and notation although I giue them leaue for a time to soiourne among the annotations, yet I dare not admit them into the text.**

[The generall] hęc definitio generis & speciei aduersas superioris & huius topici differentias ostendit: illic integrum sumit essentiam è membris: hîc genus essentiam speciebus tribuit: illic membra constituunt totum, hîc species constituuntur à genere.

Theloall. Et sunt quædam breuia formata super certis casibus de cursu, & de communi consilio totius regni concessa & approbata, quæ quidem nullatenus mutari possunt absq; consensu & voluntate eorum: **il intende originall briefs.** Sunt etiam breuia ex ijs sequentia, dicuntur Iudicialia, & sæpius variantur secundũ varietatem placitorum &c. hæc ex *Bracton*.

Done est vne noisme generall pluis que n'est feofment. Car done est generall a touts choses moebles et nyent moebles, et feffment est riens forsq; de soyle. Britton 87. a.

Generale crimen falsi plura sub se continet crimina specialia, quemadmodum de falsis chartis, de falsis mensuris, de falsa moneta &c. *Glanuil.*

Essoniũ est { de malo veniendi { vltra mare { de seruitio regis. / terra sancta. / citra mare / malo lecti *Bracton.* 339.

21.H.7.16. Frowike. **Si ieo voyle prescriber, que ieo et touts ceux &c. ont vse de temps &c. a distreyner touts les tenantes a terme de vie, ou d'ans del manor de D. pur vn harroit**

roit apres le mort de chescun tenant &c. ceo est bon prescription: car il est in le generalitie; issintq; coments, vn ou deux, ou trois des tenures soyent determines, vncore auters poyent demurrer, issint la poet il estre vn contynuance de les tenants, coments, diuers morreront &c.

In 4.H.6.30. There is an argument vsed from the denial of all the specials to take away the generall. Recordare, le def. fist conusance come bayly A.B. file et heire P. le pl. dit, que A.B. est bastard &c. et sur ceo le def. pria ayd de A.B. et per Bab et Cott: il auera ayd: mes contra per Strang et Martin. car par luy, il doyt auer pria l'ayde in le conclusion de son conusance: et in ple personell home auera ayd puis plee plede et nemy deuant; mes in ple reall home auera ayd deuant ple pleade. Et n'ad mes deux maners de entries de ayd: l'un est de ayd deuant ple pleade, s. q̄ defendens vel tenens petit auxilium de A. sine quo ipse non potest respondere, et si soit puis ple plede, le entry est, quod def. petit auxilium de B. ad manutenendum exitum. Et in cest case il ne poet estre ad manutenendum exitum, car nul issue est ioyne: et il ne poet estre, sine quo non potest respondere, car il ad respondre al action, et in le conclusion del ceo ne ad pria ayde et ideo il est passa l'aduātage del ceo et ne sont plusors entries del ayd, mes ceux deux.

Elenchs of the whole.

A double Elench lurketh in this place, one of composition an other of diuision: for composition thus. Humfrey Crowther is a good fidler, therefore hee is good: and this fallacian is from the whole, because those two thinges so ioyned togither seeme to make vp the whole, whereupon afterward the part may bee concluded, as though in this example, Humfrey Crowther were a whole integrall thing, made and consisting of these two partes, goodnesse and fidlery. Some other call this à dicto secundum quid, ad dictum simpliciter, when wee apply that absolutely and generally which was spoken but in part and in respect, as heere Humfrey is called good, not generally, for his good conditions, but particularly in respect of his gitterne. Issint in 9.H.7.19.a. Cestuy que est heyre al pere et mere, est heyre al pere, mes l'issue del baron et sa

second feme donães in speciall tayle, est heyre al pere et mere, ergo il est heyre generallment al pere et simpliciter, non sequitur, car le pere poet auer fits per le primer feme. Vauisor. expone Maiorem & apparebit fallacia, Cestuy que est heyre al pere et mere coniunctim, est heyre al pere diuisim; ore ceo est false. Vide. L. 5. E. 4. 43. Leas fuit fait per abbe et couent, ergo per abbe sole, nul reason. q. an ferra intende mesme le leas.

Now on the other side, Diuision is a fallacian, as it were from the partes, when thinges are seuerally propounded and ioyntly concluded, as

Antony Now-Now is good, and a singer, therefore
Antony Now-Now, is a good singer.

For indæde these two thinges seuerally put downe are not essentiall partes of Antony Now-Now, but onely accidentall qualities: whereas if they had bæne his essentiall partes the argument would haue followed, as here

A man is a liuing and sensible creature, and also reasonable, therefore
A man is a reasonable liuing creature.

And so in composition, thus,

A man is a sensible creature endued with reason, therefore
A man is sensible; or therefore A man is reasonable.

Elenchs of the part.

First when you inferre the whole, some of the partes wanting. Isabell Greenesleeues hath a fayre hand, a good leg, a quick eye, therefore shæ is a proper fayre woman: it followeth not, for shæ is splaysooted, crookbacked: tunnebellied, sawtoothed &c. The like is that of Catullus.

Quintia formosa est multis, mihi candida, longa,
recta est: hæc ego sic singula confiteor.
Totum illud, Formosa, nego. Nam nulla venustas,
nulla in tam magno corpore mica salis.

So elswhere of Formianus his trull.

Salue nec minimo puella naso,
Nec bello pede, nec nigris ocellis,
Nec longis digitis, nec ore sicco,
Nec sanè nimis elegante lingua,

Decostoris

Decoctoris amica Formiani:
Ten' prouincia narrat esse bellam?
Tecum *Lesbia* nostra comparatur?
O sęclum insipiens & infacetum.

Vide 44. E. 3. 13. a. b. Vbi Wickingham & Persay disputant, ytrum le playnt d'un molyn in assise abatera, eoque fuit troue, que parcell del molyn fuit sur auter terre, illint il n'auoit entier molyn. Et sic come vn sophister petit plus quã oportuit.

Home esteant seisie en fée de certeine terres in vn ville, et in deux hamlets del mesme le ville, deuisa touts ses terres esteants in le ville, et in vne de les hamlettes per noſme et deux; riens del terre in l'auter hamlet passera: car son entent appere per l'exprelling d'un des hamlets. Mes Browne ex rigore Logices fuit è contra, per vn argument à toto, car le ville conteigne les hamlets, Ergo &c. mes le ley fauour deuises, quia sont faits quant homes gisont in extremis, sans reason ou erudite counsell pur le pluis part, 9. Eliz. 27. Dyer. Mes certes auterment, le deuisor plaide but the sophister. Come in trespas vers I. del parish del Aluale in com. S. yeoman; le def. dd. iudgement del briefe, car in le parishe del Aluale est vn ville appelle Wilton, et le def. iour del briefe purchase fuit demurrant en Wilton, sans ceo que il demurra in le parish del Aluale; cest, sans ceo, est repugnant al matter deuant; car s'il demurra in le ville, et le ville est in le parish, donq; il demurra in le parish, L. 5. E. 4. 20. a. Illint in l'auter case, il dona touts ses terres in le ville, et ambideux les hamlets sont in le ville, Ergò il dona touts ses terres que sont in les hamlets.

Secondly, this place is abused, when the whole is diuided into such partes as bee not his owne: as when Rhetorike is diuided into Inuention, Disposition, &c. For both these bee the parts of Logike, not of Rhetorike, as they are commonly taken: but of Elenchs in diuision more in the tractate of Diuision.

Elenchs of Generall and Speciall.

If a man, when hee knoweth one or two specials, thinketh that hee knoweth the generall; hee is much deceyued:

but more, if when hee hath gotten a generall notion of any Art, hee thinketh himselfe a sufficient artificer. For it is one thing to haue a generall and superficiall sight in an arte, but another matter, to bee able to practise those general precepts in euery particularitie.

In 26. H. 8. 6. a. Shelley abuseth this argument: Si ieo ay le manor de grand Dirtleby, ieo ay le manor del Dirtleby. Et le case fuit, que fine fuit leuy del manor de D. et in mesme le county fueront deux D, grand et petite, et null sans addition, hic Shelley dit, que passa per le fine pur le reason auãt dit: mes Fitz. denia ceo, car ne fuit ascun tiel manor, mes per feffment le manor intendus passeroit per le liuery. Shelley fuit deceaue in ceo que il prist grand D et petit D, d'estre specials, et D, sans addition d'estre le generall: et illint reuera, si ieo ay grand D, ieo ay D, come, ceo que est, homo est animal: mes in veritie, grand D et petite D, sont indiuidua, s. singuler lieues connes per tiels noismes sans ascun general chose que conteigne ambideux.

Illint 7. H. 6. 39. Hals arguit eodem modo, Vous ne dedits, mes que il y ad D maior, & D minor deins le county, Ergò il yad D, argumentum ab inferiore ad suum superius, illint est proue, que il yad tiel ville. But by his fauour it followeth not, because there is vpper Dale and nether Dale, therfore there must be a third Dale, without addition at all, that is neyther vpper Dale nor neather Dale, but distinct from them both. For, if in one county there bee two manors, the one called grand Higham, the other petite Higham, the true generall to these two singular manors, is, this word, Manor; and so it will follow well. Is. hath the manor of grand Higham, Ergò Is. hath a manor: but the manor of Higham is no such generall as should include the manors of grand Higham and petite Higham. Vide L. 5. E. 4. 47. Meisme le error, que Combe conteigne longe Combe et short Combe.

The ſeuenth Chapter.

Of the Subiect.

THus muche ſhall ſuffiſe for the argument fully agreeable: now it followeth to ſpeake of that which is agreeable but in part and after a certeine maner, as is the ſubiect and the adiunct.

The ſubiect is that whereunto ſome thing is adioyned. The ſubiect receiueth the adiunct, eyther in it, as the minde learning, the place the thing placed: or to it: & this is either affected by the thing adioyned, as the body receiueth garments to it, and is of them affected: or els it doth affect the thing adioyned, as a ſicke man receyueth vnto him the phyſitian, and doth affect him, by occupying and buſying his heade and minde in inuenting remedies for him.

Thenot in Februarie.

You thinken to be Lords of the yeare,
But oft when you count you freed from feare,
Comes the breame winter with chamfred browes,
Full of wrinckles and froſty furrowes.

Where the browes be the ſubiect of wrinckles and furrows.

In Aprill, Hobbinoll beginneth his ſong, in prayſe of Elyſa, with the ſubiect of the place, in theſe verſes.

Yee daintie nimphes that in this bleſſed brooke
doe bathe your breſt:
Forſake your watry bowres, and hither looke
at my requeſt.
And eke you Virgins that on *Parnaſſe* dwell,
Whence floweth *Helicon* the learned well.
Helpe me to blaze
Her worthy prayſe.
Which in her ſex doth all excell.

Where the Brooke is the ſubiect to their bodies, and Parnaſſus Mount, to the Well, Hellicon.

In Aprill by Hobbinoll, Elyſa is deſcribed by her garmentes and place.

See where she sits vpon the grassy greene
ô seemely sight,
Yclad in skarlet a mayden queene
and Ermynes white.
Vpon her head a cremosin coronet,
With damaske Roses and Daffadyllies set,
Bayleaues betweene
And Primeroses greene
Embellishe the sweete Violet.

Where Elysa is the subiect to these particulers, and the grassy græne the subiect to Elysa.

Maister Plowden: Fol. 217. b. Et enfancy, que est grand disabilitie, est repugnant all estate del roy; et coment que enfancy est in le naturall corps, vncore quant le corps politike del roy est conioyne a ceo, et vn corps fayt de eux ambideux, tout le corps auera les properties, qualities, et degrées del corps politique, que est le greinder et le pluis digne en que il nad my, ne poet estre, aseun enfancy.

Fol. 237. a. Le roy auoyt en luy troys choses, s. poyar, Justice, et Mercy, poyar a faire, Justice a enforcer luy de faire: et Mercy a stayer luy de faire.

Fol. 500. b. Et quant al quart point, si vsurpation poet este en sur person en personé, touts les Justices agreont en vn que il ne poet, eo que leglise ad incumbent, et est pleine. Car cesty a que le appropriation est fait, est incumbent, et ey perfect, sicome auter incumbent serroyt, que vient eins per presentment, institution, et induction. Et adonques ne poyent esse deux encumbents d'un mesme eglise a vne mesme temps. Car destre incumbent est l'office d'un corps, et si vn incumbent est, et auter est present, admitte, institute, et induce, tout ceo est voide, sicome vne est officer dune office pur vie, come seneschall del manner, ou tiels: patent fait a auter de mesme l'office presentment, est voyde, et le primer person auera action de trespas vers cesty que est darreynement admitte; et issint person en personé auera action de trespas vers vn auter que est present, institute, et induct al eglise appropre a luy, sil intromitte oue le glebe et dismes.

Fol. 280. a. Si home vst mourust intestate le propertie de

ses

ſes biens vient per le comen ley, al ordinary, entant que le mort nauoit appoint eur a aſcun. Car ſicome franktenement per le courſe del comen ley ſerra en aſcun, et ne ſerra en ſuſpence, iſſint per le comen ley, le propertie del biens ſerra en aſcun, et ne ſerra en ſuſpence. Et quant home ad propertie en biens, le property ne poet eſtre pluis longement que il viue, et apres ſa mort les biens ſont a vn auter. come le auncient verſe eſt, da tua dum tua ſunt, quia poſt mortem tua non ſunt: adonques entant que ne point eſtre ſoiens apres ſa mort, et il nad appoint eur a aſcun auter, mes ad relinque eur al monde, le ley done le propertie de eur al ordinary, et a luy (pur ceo que auoyt cure de ſa alme en ſa vie) le ley done les biens a diſpoſer apres ſa mort.

Lieu. Fol. 149. b. Et iſſint religious perſons ſerront entende touts foits a demurrer a lour meaſon, et ne poyent eſtre entende deſtre ailleurs.

Fol. 37. b. Et en ceo realme ſont diuers autorities, et nul poet exceder ſes limits et bounds, et pur ceo ſi le marſhall teigne plee de choſe fait hors del vierge, ou le Admirall de choſe fait en corps le countie, ceo ſerra voide, car lour autoritie ſertend al lieu certeine, et deins certeine precinct, et nemy aylours. Et ſi ceſty que priſt ſanctuary, va hors, cheſcun poet luy prender car il neſt priuiledge de hors, et iſſint touts foits le precinct del libertie ne poet eſtre excede, et icy le vicounte nad a faire forſq, en Loundres, et donques quant le priſoner vient hors del libertie del Loundres, a meſme ceſty inſtant il eſt diſcharge.

Fol. 396. a. Mes icy, ſyr Thomas White et les compagnions ne fueront iuſtices auterment ne as auters caſes, que a ceux, queux le commiſſion le roy aſſigne. et ſils ſont aſſigne a faire vne choſe, et ils font auter, ceſt auter eſt ſans autorite. Come ſi vn eſt eſlie arbitrator a faire arbiterment ſur vne choſe, et il fait arbiterment ſur auter choſe, tiel arbiterment eſt voyd tout neſt. Iſſint icy, ceo que ſir Thomas White et ſes compagnions fieront fuit coram non iudice, et mere-ment voyde.

Fol. 15. a. b. Et pur ceo ieo entende ceo come vn principle, quant il eſt agree perenter aſcuns que vn principall choſe

ſerra fait ou eiue, et deuant que ceo poet eſſe fait ou eiue, il yad vn auter choſe p̄imes deſſe fait, et n'eſt certeinement agreé, que faire le dit auter choſe, que le ley appoynt ceſty que ad le pluis ſcience et ſkyll, a faire le dit auter choſe, come le br̄aſier a weyer et mettre en few les bells, le taylour a ſhaper vn toge, le collector a weyer choſe pur que le ſubſidie ſerra paye al roy.

Vide Fol. 320.b. Le p̄oper ſubiect del courts le roy, come Eſchequer, common bancke, Banck le roy, en l'inf̄ormation pur mynes, l'analyſis du quel eſt annexe al fine de ceſt lyuer.

Annotations.

A [Subiect:] Not onely, οὐσία, or ὑπόςασις, an eſſence, or ſubſtance, as the common Logicians vſually take it, but alſo whatſoeuer can bée imagined or fayned to haue any thing adioyned vnto it, in it, or about it: ſo one quality may bée the ſubiect to another, as in this ariome, Vertue is commendable, where commendation is adioyned to vertue, being the ſubiect thereof.

That ſubiect wherein the adiunct is exerciſed and (as it were) vſed, is called an obiect, or matter ſubiect, as colours bée the obiect of ſéeing, ſounds of hearing, ſouldiers bée buſied in fighting, plowmen in p̄lowing, &c. as in thoſe verſes, &c.

Nauita de ventis, de tauris narrat arator,
Enumerat miles vulnera, paſtor oues.

Which béeing turned, tutch thoſe that intermedle with matters of other mens p̄ofeſſions.

Nauita de tauris, de ventis narrat arator,
Enumerat paſtor vulnera, miles oues.

The verſes bée made by Propertius, and by Ronſard tranſlated into French, thus,

Des vents parle le marinier,
Le labourer de ſes toreaux,
Ses playes compte le guerrier,
Et leurs brebis les paſtoreaux.

Claudian hath the like.

Omnia quæ ſenſu volmuntur vota diurno,
Pectore ſopito reddit amica quies.

Venator

Venator defessa thoro cum membra reponit,
Mens tamen ad syluas & sua lustra redit.
Furto gaudet amans, permutat nauita merces,
Et vigil elapsas quærit auarus opes.
Iudicibus lites, aurigæ somnia currus,
Vanaq; sollicitis meta cauetur equis.
Me quoq; Musarum studium sub nocte silenti
Artibus assuetis sollicitare solet.

Canons.

If the subiect bée, then by nature, the proper adiuncts must also bée: the other that bée not proper, may bée, and may not bée.

If the subiect bée taken away, the adiunct cannot stand.

To whom you giue the subiect, to the same you giue the adiunct.

Whatsoeuer you attribute to the subiect, that you must giue the adiunct: but in due and conuenient order.

Of the subiect things bée sometimes praised and dispraysed. The house is estéemed by him that dwelleth in the house. The place giueth occasion to iudge of that which was borne in the place, as, He was borne in Bœotia, therefore hée is but a muddy-pated asse.

Explications, illustrations, amplifications, and extenuations are fet from this place: So Cicero to his sonne, Thou art at Athens, therefore thou shouldest bée learned. Tis a Northerne Nagge, therefore quicke, Tis a Shrewsbury fryse, therefore the best.

From hence are almost all poeticall epithetes deducted.

As the subiect is, such is the adiunct. The place oftentimes augmenteth the crime. Locus est entis & non entis, corporum, dæmonum, &c. sic domus somni, hortus Hesperidum in loco collocantur.

2. H. 4. 19. Per touts les Iustices, que les Iustices de peace ne poyent prender appel de nul approuer, ne de auter. Car lour commission n'extend cy auant.

9. H. 6. 5. In pleading d'arbitrement, le partie doyt monstrer le lieu ou le submission fuit fait, et les noismes des arbitrours.

Maister Crompton, Folio. 79. 80. &c. Les Justices de peace enquirera ad chescun le lour generall sessions, de ceux que parlont irreuerentment de sacrament de corps et sanke nostre seignior Jesu Christe. 1. E. 6. cap. 1. & 1. E. cap. 1.

Item de reteyners, liueries, maynteiners, imbracers, bowstaues, archers, illoyall games, forestallers, regrators, vitailers et Inholders, et de chescun de eux, per, 33. H. 8. cap. 10. & 37. H. 8. cap. 7.

Item de cestuy que tue weinlinges que sont dessus l'age de deux ans, al intent de vender. contr. 24. H. 8. cap. 9. & 14. El. cap. 11. Et illint de plusors autres.

Pur le subiect del lieu, Vide L. 5. E. 4. 7. 8. En annuitie vers le Prior de S. Mary Oueres in Southwarke, in le county de Surrey, le pl. count sur fait a Londres in le parish de S. Dunstane, in le garde de Faringdone, et le fait est dated, in domo capitulari eiusdem domus. Per Choke, ceo ne poet estre per comen entendement, que le Chapter del S. Mary Oueres in Southwark que est in Surrey serra le fait in Fleetstreete in Londres &c. mes per speciall matter monstre il poet, car vbi personæ, ibi Capitulum: Mes si le date esset, in monasterio domus prædictæ, ceo per null intendement serra prise alibi, que in Southwarke ou le meason est, car le material meason n'est remouable, come le Chapter est.

Accessorium sequitur suum principale, hinc versus

Quicquid plantatur, seritur, vel inædificatur,
Omne solo cædit, radices si tamen egit.

Sublato principali, tollitur accessorium. Nam, non entis non sunt qualitates. Jeo enditera vn home pur aspoter teunes pigeons hors de mon Columbier, ou ieunes goshauks engendres en ma parke, car le propertie est in moy et ieo poy eux prendre a mon pleasure, car ils ne poyent aler dehors. Contrà del auncient haukes ou pigeons que poyent fuer. Sic ieo enditera pur prisel des pikes ou tenches hors d'un ponde ou troncke, causa qua suprà, contrà sils soyent prises en le ryuer, eoq; a ore ieo ay null propertie in eux, 18. E. 4. 8.

Elenchs.

The Lawe abhorreth such thinges as are done without authoritie

or commission, coram non iudice. So 10. H. 4. 2. Præmunire facias illist de ceo que le def. auer sue al court de Rome de chose dont conusance apertient al court le roy. See the boke called, Diuersities des courtes et lour Jurisdictions, wherein the matter subiect of the Marshalsea, Kings bench, Common place, Chauncery, Eschequer, Cinque portes, &c. is distinctly put downe. For the authoritie of courts is limited, neyther is it lawfull to intrude sophistically, or iniuriously incroache one vppon another. Vide 3. 4. P. & M. 14. Dyer. Fuit enact, que les quarter sessiõs de Anglesey serront tenues in Beaumaris: et les Justices de peace teigne eur ad Newburghe, et la preigne inditements de felony: ceux inditments fueront voyde, et coram non iudice. Vide 22. E. 4. 33. a. b. Commission est direct as certeine homes de oyer tantum, et ils oyont et determinont, cest coram non iudice: Sic s'ils oyont matters hors del compas del commission. Sic si in common bancke vn appele de mort ou robbery soyt port, &c. et le party est attaint, cest coram non iudice, car lour patent ne dona al eux cest poyar et authoritie.

The eight Chapter.

Of the Adiunct.

AN adiunct is that whervnto something is subiect.

An adiunct is eyther Inherent in the subiect, or adherent to it.

The adherent adiunct doth eyther affect the subiect: or is affected by it. So vertues, vices, learning, and all such qualities are adiuncts to mans minde.

And as euery place is the subiect of the thing placed: so, time, that is to say, the continuance of euery thing, is the adiunct of those thinges which do continue in time.

So all qualities which eyther bee proper, as laughing to a man: or common, as whitenesse to a stone, and a wall are truely called adiuncts.

Finally euery thing which agreeth vnto an other, being neyther the cause, nor the effect thereof, is an adiunct of the

thing whereunto it doth agree.

Colyn Clowt in January sayth.

All as the sheepe, such was the shepheardes looke,
For pale and wanne hee was, alas the while.
May seeme he lou'd, or els some care hee tooke, &c.

Thenot in February of himselfe,

Selfe haue I worne out thrise thrittie yeares,
Some in much ioy, many in many teares:

Where the thrise thritty yeares, bee an adiunct.

In March Thomalin argueth the spring to bee at hand, by these adiunctes.

The grasse now gins to bee refresht,
The swallow peepes out of her nest,
And clowdy *Welkin* cleareth.

In July Thomalin describeth Abell by his adiuncts compared.

As meeke hee was as meeke mought bee,
Simple, as simple sheepe:
Humble, and like in eche degree
The flocke which hee did keepe.

And in the same discourse displaying the demeanour of ours shepheardes and their pompe and gorgeous attire.

But now (thanked be God therefore)
the worlde is well amend,
Their weedes bene not so nighly wore,
Such simplesse mought them shend.
They bene yclad in Purple and Pale
So hath their God them blist.
They reigne and rulen ouer all,
And Lord it as their list
Ygyrt with belts of glitter and gold, &c.

In August Perigot describeth his bouncing Bellibone by his attire.

I saw the bouncing *Bellibone*
hey ho *Bonnibell*
Tripping ouer the Dale alone,
Shee can trip it very well.
Well decked in a frock of gray.

Hey ho, gray is greete.
And in a kirtle of greene ſay
The greene is for maydens meete.
A chapelet on her head ſhe wore
Hey ho chapelet:
Of ſweete violets therein was ſtore,
Shee ſweeter then the Violet.

In November Colyn vſeth this argument very oft in declaration manner, where hée bewayleth Didoes death, as

Coloured chapelets.
Knotted Ruſheringes.
Gilt Roſemary.
Mantled Meadowes &c.

Thomalin in Iuly.

The hils where dwelled holy ſaintes
I reuerence and adore,
Not for themſelues, but for the ſainctes,
Which haue bee dead of yore.

By conſideration of all theſe agréeable argumentes, thinges that differ one from an other, are called one, the ſame, or agréeable.

So before, Colyn in January, was ſayd to haue the ſame loke that his ſhéepe had,

All as the ſheepe ſuch was the ſhepheardes looke,
For pale and wanne he was, alas the while &c.

Meaning one in adiunct, not in eſſence. And ſo in like maner of the reſt of the agréeable argumentes wé may ſay.

Fol. 357.a. Et quant al ceo, ils diſoient que fines oũt eſtre de treſgrand antiquitie al comen ley. Car ils ount eſte ſi longement come aſcun court de record ad eſtre. Et ils fueront per le comen ley aſſurance pluis fort, et de plus grande force et puiſſance. Et iſſint ſont terme per leſtatute de modo leuandi fines. &c.

Fol. 413. b. Le deuiſour ſerra accoumpt inops conſilij, pur ceo que voluntes de pluis ſouent ſont faites quant homes ſont giſant en extremes et faudront councell. Et pur ceo le ley enterpretera les parols, et directera ſa operation accordant al entent del partie.

Fol. 181. b. Et donques icy, quant il fuit arraigne pur le tuer del home ſur malice prepenſe, le ſubſtance del matter fuit, ſ'il luy tue ou nemy, et le malice prepenſe n'eſt que del forme ou circumſtance de tuer. Et coment que le malice prepenſe fait le act plus odious, et pur ceo cauſe l'offendour de perder diuers aduantages que auterment il aueroit, come ſanctuary et clergy, et tiels ſemblables, vncore il n'eſt auter que le manner del fait, et nemy le ſubſtance del fait. Car le ſubſtance del fait eſt le tuer de luy: et adonques quant le ſubſtance del fait et le manner del fait ſont miſe en iſſue enſemblement, ſi les iurors troueront le ſubſtance, et nemy le manner, vncore iudgement ſerra done ſur le ſubſtance. Come ſi home arraigne aſſiſe pur diſſeiſin oue force, et le defendant plede al generall iſſue, et les iurors troueront le diſſeiſin, mes nemy oue force, vncore le pleintife auera ſon iudgement: car le tortious expulſion fuit le ſubſtance, et le force, le manner. Et adonques quant le ſubſtance eſt troue, il auera iudgement pur ceo, et ſerra acquite del force, &c.

Fol. 381. Et quant al auter point, il dit que coment que le rent charge eſt nouel rent commenceant per graunt, vncore il eſt iſſint appropre al office que il ne ſerra ſeuere del office ey longement come le office continue: iſſint que ſi le office ne ſerra forfeite, le rent que eſt annere al ceo ne ſerra forfeite. Car ſi vn grant eſtouers a vn autre d'eſtre arſe en tiel meaſon, il eſt appurtenant al meaſon. Et iſſint comen graunt en tiel lieu a vn pur ſes auers leuant et couchant en ſon ferme de Dale, le commen eſt fait appurtenant a ceo, iſſint que il que ad le meaſon per quecunq; title que il vient a ceo apres, auera les eſtouers: et il que apres viendra al ferme, auera le comen: et les eſtouers ne poient eſtre ſeuere del meaſon, ne le comen del ferme, ſi non per extientiſment. Car ſ'il que ad le meaſon voile graunter les eſtouers a vn auter reſeruant a luy le meaſon, ou le meaſon a vn auter, reſeruant a luy les eſtouers: les eſtouers ne ſerront ſeperate del meaſon per ceo, pur ceo que ſerront expende en meſme le meaſon. Et iſſint le fée icy eſt graunt pur le exerciſe del office, et l'office fuit receiue en reſpect del fée, & ſic officium & fœdum ſunt concomitantia, et l'un enſue l'auter et le fée continua

tinua oue l'office come incident inseperable: & quæ sequuntur in eodem loco, del annuitie graunt pro consilio impendendo; de office del roy de Haroldes, graunt a Garter, cum fœdis & proficuis ab antiquo &c. 5. E. 4. Fol. vltimo. Et del graunt de x. li. à Garter ad terminum vitæ suæ ratione & causa officij. 7. E. 4. Fol. 23. et del annuitie graunt per le roy, Iohanni clerico coronæ, ad terminum vitæ suæ; en queux cases, le fee est annexe al office, et est determinable oue l'office.

Fol. 26. b. Si vn reteigne vn auter a seruer pur an pur le salary de xx.s. la si le seruant demand les xx.s. il doit monstrer que le temps est passe, cest assauoir, l'an expire, et doit ceo pleder certeine, pur ceo que son action est done en respect del an passe, et del chose fait en temps, et le temps est parcell del cause del demaunde, et precede le demaunde.

Annotations.

ADiunct:] The same almost which the Græcians call περισσια, and περίστασις, circumstances, if you take that word largely for whatsoeuer is added to a thing after it is once framed and made of his essentiall causes, and some of them procéede from the vniting and coniunction of the forme and matter immediately, which are commonly inseparable, as laughing to a man &c. Some are but hangbyes and removable, or separable, and, as it were, tenants at wil, as white, blacke to the wall, &c.

Adiuncts therefore, not Accidents are they heere called: for Accidens is of it selfe, infinite and vndeterminate, and doth properly apperteine to the accidentall cause, which we before tearmed chaunce, hap, or hazard: and it conteyneth effectes, adiunctes and comparates; so that the name béing neyther fitte, nor applyable to this place, I haue displaced it purposely.

[One and the same:] Héere is Logically put downe all that, which others peruersly teach in their diuers sortes of Idemtitie. as, Genere, Specie, Numero.

Some there bée that giue a proper and peculiar place to signes and coniecturall tokens: but friuolously. For they belong all eyther to this of adiuncts, or that other of effectes. or els they bée testimonies and witnesses.

Canons.

If the proper adiunct bée, then the subiect must commonly bée: and if the subiect bée, the proper adiunct must also bée.

To whome soeuer you ascribe the adiunct, to the same you must attribute the effect proceeding from the same adiunct.

That which is rightly applied to the inherent adiunct, must bée applied also to the receiuing subiect.

Here are gathered diuers phisiognomicall coniectures, as that of Martiall.

Crine ruber, niger ore, breuis pede, lumine læsus,
Rem magnam præstas, Zoile, si bonus es.

Hence are also set prayses and dispprayses, deliberations and consultations. Herein are conteined all those Rhetoricall places concerning the giftes and qualities of body and soule, as also externall and those of fortune.

If the adiunct bée occupied or exercised, then the subiect must bée that exerciseth the same.

To whatsoeuer you ascribe the adiunct which is occupied, to the same you must giue the subiect: and what you apply to it, you must also attribute to this.

Sometime the adiunct together with the subiect is taken but for one onely argument, as when I say: The murthering and vsurping Tyrant, Richard the third, was deseruedly slayne: and yet neuertheless here the subiect is argued in some respect by the adiunctes, in that it is thereby described and declared.

Some adiunctes bée antecedent or going before, some againe present and coniogned, lastly some others consequent and following. Therefore some other Logicians haue made these thrée kinds of adiuncts, thrée seuerall kindes of arguments, as Antecedentia, adiuncta, consequentia.

Naturall Philosophers, Phisitians, Astronomers, and other professors vse much this place: as when they dispute of chaunge of weather, diuersitie of causes and occasions of diseases, signes of stormes and tempestes, as, vento rubet aurea Phœbe, when the Moone is red, thée betokeneth wind. These common adiunctes bée called τὰ κοινῶς συμβεβηκοτα, τὰ ὡς ἐπὶ τὸ πολὺ, τὰ μὴ ἀφ' ἑπυλια.

10. H. 6. 21. Merchant eſt bon addition, & eadem lex de wydowe, ou ſingle woman.

Seruant n'eſt addition, car eſt trope generall. L. 5. E. 4. 22. Vide 14. E. 4. 7. quel ſerra le addition d'un feme, que eſt ne mayde, widow, ne wife.

Vide 31. & 32. H. 8. 5. Dyer. Spynſter eſt addition tybien al home, come al feme, car per Spylman in Norfolke ſont diuers homes qui ſont wꝛitted ſpynſters.

Maiſter Lambard. Iuſtit. lib. 2. cap. 5. M. Marrow ſayth, that fiue pꝛincipall things bée moſt commonly requiſite in pꝛeſentments beforꝛe Iuſtices of peace.

1 The name, ſurname, and addition of the party indited.

2 The yeare, day, and place, in which the offence was done.

3. The name of the perſon to whome the offence was done.

4 The name and value of the thing in which the offence was committed.

5 The manner of the facte, and the nature of the offence, as the manner of the treaſon, murder, felony, oꝛ treſpaſſe.

Ad: Temp. Maiſter Lambard. Iuſt. lib. 2. cap. 19. Touching the continuance of theſe quarter ſeſſions, I haue ſhoꝛtly but this one thing to ſay: that almoſt two hundꝛed yéares ago, it was oꝛdeined by ſtatute (12. R. 2. cap. 10.) that they ſhould bée continued thꝛée dayes togeather, if néede were, vpon paine of punihment. And yet, in theſe dayes of ours, wherein the affayꝛes of the ſeſſions bée exꝛeedingly increaſed (and conſequently moꝛe néede to continue them now then beforꝛe) many dw ſkantly affoꝛde them thꝛée whole houres, beſides that time which is ſpent in giuing of the charge.

Maiſter Crompton. Iuſt. Fol. 63. hath a number of adiuncts, effects, ſubiects, ꝛc.

Inprimis coutent conſider le qualitie del home, lequel, il eſt ſemble a faire tiel felonious act, ou nemy.

Item quel choſe doyt luy mouer d'attempter tiel enterpꝛiſe.

Item lequel il fiſt le murder, ſur aſcun diſpleaſure deuant conceue, ou ſur ſodein anger.

Item lequel il erpect per ſon mort, d'auer ou receiuer aſcun cõmodity, come terre, office, argent, ou aſcun auter gaine.

Item lequel il eſt vn que ne regard le tuer de home, ou ſil ad ew pardon ou ad eſtre acquite pur tuer de home auant ceſt tẽps, car tiels choſes face homes d'auer luy in ſuſpicion.

Item le pais ou home fuit nee, declare aſcun foits ſon naturall inclination, come ſi l'vſt etre nee, ou educatus enter les homes de Tyddeſdale et Ryddeſdale, poet eſtre plutoſt ſuſpect.

Item dequel trade il eſt, et per quel occupation il viue.

Item lequel ſoit gameſter ou haunter de alehouſes, ou vn companion inter ruffians.

Item dequel abilitie il eſt, et coment il auient a ceo que il ad, ſil ad aſcun choſe.

Item quel apparel il vſe, et lequel il ama daller brauement ou nemy.

Item dequel nature il eſt, lequel ſoit haſtie, heady, ou preſt de quarreler.

Item queux chyftes il ad de temps en temps, et quel choſe luy moue de fayre tiel haynous act.

Item lequel le home fuit tue in le haut chemyn ou en boys, ou perenter deux hilles, ou lequel prochein vn hedge, ou auter ſecret lieu.

Item lequel fuit en le matyne, ou ſere en le nuite, et lequel fuit view la circa ciel temps.

Item lequel il ſenfua apres l'act commit, ou auera aſcun ſank ſur luy, ou ſil tremble ou ſtaggar, ou ſoit contrary, en diſant de ſon tale, et coment il gard ſon countenaunce.

Item lequel auer eſperance de garder ſon fact ſecretment per reaſon del place, temps, et le maner de ſon ſecret feaſans.

Item dauer teſmoignes examines de ſon eſteant en ceo place, ou en auter place, al temps del act fait.

Item compare le force de murderer oue le weakenes, armor oue le nakednes, ſtoutnes oue le ſimplicity d'auter.

Item ſon confeſſion demeſne, Wilſon Rhet. Fol. 17.

Item ſi ſoit vagarant, & nullam exercens artem, nec laborem, ou ſi certein d'esbiens emblés ſuer in ſon poſſeſſion. 7. E. 4. 10.

Item

Item siquis appellatus fuerit à probatore, & fugerit propter appellum, & mortuo probatore redierit, est suspiciosus per *Bracton.*

Item fama quæ suspicionem inducit, oriri debet apud bonos & graues, non quidem maleuolos & maledicos, sed prouidas & fide dignas personas, non semel, sed sæpius; quia clamor innuit, & defamatio manifestat, & vanæ voces populi non sunt audiendæ. Idem *Bracton.*

Item si ascun soyt imprisone pur suspition de felony, et eschapa, ou fait tout que en luy est, de eschaper, est grand suspition que il est culpable. Stamf. 180.

Item si quis noctu cubauerit in domo solus cum aliquo qui interfectus sit, vel si duo vel plures ibi fuerint, & hutesium nō leuauerint, nec plagam à latronibus vel interfectoribus in defensione facienda acceperint, nec ostendunt quis, de se, vel de alijs hominem interfecerit, his casibus mortem dedicere non possunt. *Bracton.*

Item si quis notum vel ignotum in domum suam acceperit, qui viuus ingredi visus sit, verum postea nunquam nisi mortuus: dominus domus, si tunc domi sit, vel alij de familia qui tunc interfuerunt, pœnam capitalem subibunt, nisi fortè per patriam fuerint liberati. Idem.

Item communis vox & fama est sufficient cause de suspition de felony, sans auter especiall matter alledge. per Curiam. 5. H. 7. 2. H. 7. 6.

Item si home soit robbe, ascuns voile prender le measure de les pces de les robbers, et de les chiuals, et si cesty que est robbe ad suspition d'ascun il voile causer le measure d'estre mis al pce de tiel person, et son chiuall, et sils accorde, il poet estre suspitious.

Item si home appelle auter traitour, et il dit rien a ceo, il est cause le luy arrester pur suspition, et pur ceo couient que il respōde a ceo. Fitz. coro. 24. 37. H. 6. per les Justices, issint semble ou home appelle auter thefe, et il dit rien a cell, &c.

Item Nota, il est vse, ou home est suspect d'auer murdre auter, d'amesner luy al mort corps et sur cel il ad estre vieto, que le corps ad nouelment met hors sanks, videlicet, hath

bled freshly, sicome vst este nouelment tue. Et sur ceo il ad este pris, et condemne, et quant il ale al execution, il ad conus le fact.

Adiuncts bee more plentifull, saith Ramus, but subiectes more forcible in arguing, as, hee lookes, ergo hee loues, it followeth not so well, as thus, hee loues, ergo hee lookes. Yet some like not of this note. For, say they, if you consider the subiect and the adiunct Logically, then the one doth equally argue the other, but if phisically, then that is heterogeneum and impertinent.

As the place, so the time may inhaunce or diminisshe the value of thinges. So that, as a man may plus petere loco, so may hee also tempore. Qui tardius soluit, minus soluit, sic qui commodori loco, Qui citius petit, plus petit, sic qui loco magis remoto. Nam vt dies est pars obligationis, sic tempus.

11. H. 4. 31. b. Hill. Home prist mon fits bien vestue, luy dispoyle, et dona a luy vn drape, ieo auera le drape quia ieo auera le corps que il couer: sic adulter vest ma feme &c.

A les Justices pertient pur doner iudgment, oyer, recorder, agarder proces &c. a les Clerkes pur escriuer ceo que les Justices agardont, a le vicount pur returner briefs a luy directes &c. 7. H. 6. 30. Hals.

Si action de wast soit dore done generalment vers tenant in tayle apres possibilitie dissue extinct, treble dammages serront recouer vers luy sans plusors parols, car ceux sont adioynts a ceo per le former statute: et quant ceo est done in nouel case, tout que est adioynt a ceo est done one ceo similiter.

Donatio officij del Exigenter de London &c. pertinet ad dispositionem capitalis Iusticiarij pro tempore existentis, vt incidens inseparabile ad personam dicti capitalis Iusticiarij spectans, & hoc ratione præscriptionis & vsus. 1. & 2. Eliz. 25. Dyer.

1. H. 4. 6. per Gascoigne, si le roy per parols generals graunta choses a queux autres sont incidents queux ne sont seuerables, les incidents passont. Come sil graunta moy terre cum pertinentijs, a que comon est appendant, le comon passa.

Tyrwit dit, si le roy graunta moy le foundation d'un

abbey, le corody passa: Issint sil graunts sayze, ieo auera vn court de pipouders incident a ceo.

Vide Parkins page. 24. Des incidents que passont per le graunt des principals: come fealtie est incident al homage et al rent, rent al reuersion, aduouson al manor.

Acquitall est incident al franckalmoigne, Littleton, 32. a. acquitall et garrantie sont incidents al Homage auncestrel, Little. 32. Distresse al rent seruice, 51. Distres al rent reserue sur egalitie del partition, 55. Surueyor al Joynte-nancy. 62.

Vide 12. H. 8. 7. 8. 9. Brooke Justice sayth that, le person ad le fæsimple in iure ecclesiæ, wherevnto agræth Elyot. Brudnell, semble que le person ad le fæsimple, car le patron n'ad ascun interest mes solement le presentment. But Pollard will haue it in the Patrome.

Elenchs.

This place, as others, is then abused, when false adiuncts bee applied, or others not orderly applyed.

The ninth Chapter.

Of the diuers or different.

Hitherto of argumentes agæable, now followe the disagræable.

A disagræable argument is that which disagræth from the thing which it doth argue.

The one of these ioyned or compared with the other appeareth more plainely.

Disagræable argumentes bee either diuers or opposite. Diuers or different are disagræable argumentes which differ onely in respect, and are onely fit for declaration: they are often in authors, and many of them be expressed by these signes, Not this, but that.

Colyn in January, Colyn loude not Hobbinol, but Rosalinde.

Maister Plowden: Fol. 82. a. Car parols, que ne sont auter, que le verberation del ayer, ne sont l'estatute, mes solement

ment le image del ſtatute, et le vie del ſtatute reſt en les ments del expoſitors del parols, quels ſont les ſeaſors del ſtatute.

Annotations. Elenches.

ONely in reſpect:] not indeede, and naturally, in reſpect of the thinges themſelues, which may very well oftentimes concurre in one, but onely in reſpect of his meaning, that ſo put them downe. Therefore the vſe of diuers argumentes is in diſtinction, and euident explication, not in confirmation. L. 5. E 4. 7. per Bryan: les walles, timber, couerture, pieres &c. del Chapterhouſe, ne ſerront dits properment le Chapterhouſe, mes lou le couent et Chapter ſont, la properment eſt le Chapterhouſe. In that ſaying of Chriſt, I come not to ſend peace, but the ſword, if wee entend this concluſion, I come to ſend the ſword, therefore not peace, then the argumentes bee repugnant, ſayth Waſſerleider: but if wee take it as ſpoken onely for explication and diſtinction, then they bee vſed as diuers.

Ramus firſt found, diuerſa: Rodolphus Agricola, diſparata, which he calleth differentia.

This place is abuſed, when ſuch thinges bee put downe for diuers, which are not diuers properly.

The tenth Chapter.

Of Oppoſites.

OPpoſites are diſagreeable argumentes which diſagree both in reſpect, and in matter it ſelfe, and therefore cannot agree vnto the ſame thing, according to the ſame part, reſpect, or time, as the ſame man cannot bee hote and colde in the ſame part of his body, at the ſame time. So Socrates cannot bee father and ſonne to the ſame man: ſicke and whole at the ſame time: Inſomuch that if one of them bee affirmed, the other muſt bee denyed, and contrarily: but neceſſarily in the firſt; contingently in the ſecond.

Oppoſites

Oppoſites are eyther Diſparates or contraries. Diſparates are ſundry oppoſites wherof one is equally and in like manner oppoſed vnto many.

Hobbinoll in Aprill in his ſong of Eliſa.

Bring here the Pincke and purple Cullambine
with Gelliflowres:
Bring Coronations, and Sops in wine
worne of paramours.
Strow me the ground with Daffadowndillyes,
And Cowſlyps, and Kingcups, and loued Lillyes,
The prety Paunce,
And the Cheuiſance
Shall match with the faire Flowrede lice.

All which herbes bee equally differing one from another, and are therefore Diſparates.

P. Plowden Fol. 170. a. b. Mes vn groſſe noſme poet conteigner diuers choſes corporall, come Manor, Monaſtery, Rectory, Caſtell, Honor, et tiels ſemblables. Car eux ſont choſes compound, et poyent conteyner tout enſemble, meſſuages, terres, prées, bois et tiels ſemblables.

Annotations.

ÆQually:] not as though one Diſparate ſhoulde differ equally from all the other. But equally ſignifieth viciſſim, ſimul, alike, in like manner, againe, &c. Waſſerleider.

Diſparo ſignifieth to ſeuer, or ſeparate. Of that word commeth Diſparata, that is, thinges ſeuered, or put a ſunder one from another.

Canons.

If one Diſparate bee equally oppoſed to many, then certeinly, if one of them bee affirmed, all the reſt muſt be denied. But if one among all bee denied, you cannot ſtraightwayes infer any other what you liſt, but ſome one of the ſame kind of thinges. And therefore, from the firſt part of the Canon, commeth a neceſſary ariome, but from the ſeconde, a contingent. What then if I ſhould thus reaſon?

If this man bee not a Lawyer, hee is a Diuine.

Or thus, out of Virgill.

If the Spartane mayd bée not a woman, shée is a goddesse. Bée these axiomes false or no? I answere, they bée not altogether false, but contingent. And therefore I said before, that if one of them bée affirmed, the other must bée denyed, and contrarily, that is, if one of them bée denyed, the other must bée affirmed: for, as in this argument, so in many others, the common Logicians very rashly say, it doth not followe, if it do not follow necessarily: Wheras notwithstanding it may follow, although it follow contingently. So then the one affirmed, the other is denyed necessarily: but the one béeing denied, another shall bée affirmed contingently, as I sayde in the text.

Maister Lambard. Iust. lib. 1. cap. 12. Capitall or deadly punishment is done sundry wayes, as by hanging, burning, boyling, or pressing.

Not Capitall is of diuers sortes also, as cutting of the hande or eare, burning or marking the hande or face, boaring through the eare, whipping, imprisoning, stocking, setting on the pillory or cucking-stole, which in olde time was called the tumbrell, and of olde, but not now, pulling out of the tong for false rumors, cutting off the nose for adultery, taking away the priuy partes for counterfeiting of money.

Pecuniary punishmẽts bée diuers, as issues, fines, amerciaments, and forfeiture of offices, goods, and lands &c.

The Romanes vsed specially eight sorts of chastisements, Damnum, vincula, verbera, talio, ignominia, exilium, seruitus, mors.

Elenchs.

When diuers bée put downe as Disparates. So in Martiall.

Pinxisti venerem, colis, *Artemidore*, *Mineruam*,
Et miraris opus displicuisse tuum?

For both these things might bée done together by Artemidorus well ynough, and yet his worke displease no man.

The

The eleuenth Chapter.

Of Contraries.

Contraries bee such opposites, whereof eyther one is onely opposite to one, or one to two, but more to the one of them, than to the other. They bee Relatiues or repugnant. Relatiues are contraries, whereof the one is so opposed to the other, as yet there may bee in other respects a mutuall consent and reciprocall relation betweene them, whereupon they bee called Relatiues, as father, sonne, husband, wife, &c.

In May Palinode.

So schooled the gate his wanton sonne,
That aunswered her mother, all should be done.

Maister Plowden. Fol. 121. b. Le greinder est in respect del meynder: et istint en ceo que il affirme le conusance del greinder number, il affirme auri le conusãce del meynder &c.

Repugnant arguments bee such contraries, whereof one is so opposite to one, or at the most to two, as that there can neuer any agreement bee found betweene them. So Warre is onely opposite to peace: but couetousnes to liberality and prodigalitie, yet more to prodigality.

Sheepheard I list none accordance make
With sheepheard that does the right way forsake:
And of the twayne, if choyse were to mee,
Had leuer my foe than my friend to bee.

Colyn in December.

Loue they him called that gaue mee checkmate,
But better mought they haue behot him hate.

Perigot in August.

Ah *Willy*, when the hart is ill assayde,
How can bagpipe, or ioynts be well apayde?

Maister Plowden Fol. 467. a. Et istint il apiert diuersitie, (hee should haue sayde rather Repugnancy) enter les deux equities, car l'un abridge, l'auter enlarge: l'un dymynisha, l'auter amplifie: l'un tolle de le letter, l'auter ad al ceo.

Fol. 274. a. Car hors de memory, et hors de conusance, est

tout vn. Et ambideux ces phrases signifie ignorance del temps: et quant le partie prist connisance del temps, il n'estoit en sa bouche a dire, que il est ignorant de mesme le temps. Car ignorance et science sont contraries repugnant, et d'affirmer contraries, null serra suffer per nostre ley.

Under Repugnant arguments be conteined Priuatiues, as blindnes is opposed to sight; darkenes to light; death to life.

Piers in May.

For what concord han light and darke sam?

Willen et franck home sont priuatiues. See Plowden 397. a.

And thus much of disagreable argumentes, by which one thing is sayd to bee different from another.

Annotations.

THis word, Contrary, betokeneth no distinct and speciall determinate argument, but is a generall affection incident to diuers specials. Therefore in Judgement we should not say, the argument is from the contrary, but from this or that kind of contrary, for all contraries argue not alike. And so in other arguments wee must not sticke in the generalitie, but descend to particulars, as, what cause, what subiect, what adiunct.

Cum res duę ità comparantur, vt ex earum altera affirmata, affirmetur altera, ex altera negata, negetur altera, tum illæ sunt consentaneæ, vt *Aegistus* est otiosus, ergò adulter: Efficiens non habet instrumenta ad ædificandum, ergò non potest ædificare: Causa & efficiens vtrobiq; : Sed cum ex vna affirmata, altera negatur, vel ex vna negata altera affirmatur, tùm sunt dissentaneæ, vt *Sophroniscus* fuit pater *Socratis*, ergò non filius : & *Socrates* fuit *Sophronisci* filius, ergò non pater: hîc causa & effectum sunt, sed considerantur, vt dissentanea: quià ex altero affirmato negatur alterum. Et non est absurdũ, quod vna eademq; res, diuerso respectu, sit & consentanea & dissentanea. Itaq; teneamus Relata. *Piscator.*

Scribonius would haue the nature of Relatiues generally put downe immediately after the generall definition of an argument in the first Chapter. Because, as a father cannot bee somuch

ſomuch as imagined without a ſonne, nor a ſonne without a father, ſo no more can a cauſe without a thing cauſed, thing cauſed without a cauſe, ſubiect without adiunct, adiunct without ſubiect &c.

Sometimes the Relatiues haue both diſtinct names, as father, ſonne, ſometimes but one name, as a brother is hée that hath a brother, a diſparate is that which hath a diſparate.

One Relatiue doth define and expound another. So the cauſe is defined by the thing cauſed, and this by that &c.

Relata ſunt ſimul natura, for though Dauid were Dauid before Salomon was borne, yet Dauid was neuer Salomons father, before Salomon was Dauids ſonne.

Relata ita contraria ſunt, vt non ſint ſine medio: nam inter patrem & filium, eſt medius, qui neq; pater, neq; filius eſt.

I. Guyer fuit endite deuant le Coroner ſuper viſum corporis, del mort Emeline Guyer ſa feme. Et l'enditement fuit, que le dit Emelyne fuit in pace domini regis, quouſq; antedictus I. Guyer, vir præfatæ Emelyne Guyer &c. ceſt inditement fuit challenge. Car il poet eſtre intend aſſets bien per l'enditement, que le feme n'eſt occiſe, mes eſt in vie, et iſſint repugnant en luy meſme, coq; le dit I. Guyer eſt appelle vir præfate Emelyne, ou il ſerroyt, nuper vir, car vir eſt corrélatiue al feme, et ne poet eſtre vir niſi in reſpectu vxoris &c. 31. 32. H. 8. 3. Dyer.

Il ne eſt poſſible, que vn perſon poet eſtre ſouereigne et ſubiect. 4. Eliſ. 22. Dyer.

That which agréeth with one of the Relatiues, commonly agréeth with the other, as if it bée honeſt to teach, it is no ſhame to learne.

Relatiues in our law bée, as, ſeignior tenant, paramount per auayle, playntife defendant, demandant tenant, garde gardeine, feffor feffée, donor donée, grauntor grauntée, leſſor leſſée, diſſeiſor diſſeiſée, conuſer conuſée, baron feme &c.

Repugnants.

If one repugnant argument bée denyed, the other muſt bée affirmed, if there bée no third thing put betwéene them.

Although Contraries cannot bée applyed vnto the ſame thing, yet the ſame thing may be applied vnto contraries.

Priuatiues.

Priuatiues they call those whereof one denieth onely in that subiect whereunto the affirmatiue agréeth by nature (affirmatiue is that which doth affirme and lay down some thing to bée or imagined to bée) and héere the affirmatiue is called the habite, the negatiue the priuation thereof. A stone therefore cannot bée called blinde, for that it was neuer framed of nature to bée capable of sight, but it may bée called, not séeing.

Crompton: Fol. 29. Home tua auter quant est ebrius, il serra pendus quant est sober.

Priuatiues be, In prison alarg. compos mentis, non sans memorie: aueugle surde, mute. &c.

Priuatio presupponit habitum, vnde illa consectaria, non videtur rem amittere cuius propria non fuit. Non potest videri desisse habere, qui nunquam habuit. Quod quis, si velit, habere non potest, id repudiare non potest. Eius est non velle, qui potest velle. Expressa nocent, non expressa non nocent. Qui tacet, non vtiq; fatetur, sed tamen verum est eum non negare. Cum architecti quidam palatium ædificarent in via publica, & cum proiecto lapide proclamassent, quidam iter illac faciens, lapide vulneratus, architectos omnes in ius vocauit: ab his consultus Pyleus, animaduertit, eos probare non posse, quod proclamassent: itaq; non ius, ait, deficit, sed probatio. Cum igitur cras in iuditium veneritis, cauete, ne verbum proferatis, sed me solum loqui sinatis: die igitur iudicij constituto, cum à iudice accusationi respondere iussi essent, & *Pyleus* illos vt mutos excusaret, ibi aduersarius id pernegare cœpit, quoniam ipsos, cum vulneraretur, clamantes audisset, vt sibi caueret: quæ verba *Pyleus* statim ad acta referri iussit, & ita eos à lite liberauit. *Baldus* in sua pract. tit. de cautelis.

As for contradictories, it were vtterly impertinent to make any discourse of them in this place, as wholy belonging to axiomaticall disposition, whereunto all contradictions are naturally incident, howsoeuer Beurhusius distinguish in this case.

Elenchs.

In relatiues, Omnia castor emis, sic fiet vt omnia vendas? Martiall.

Martiall. Indeed if Castor buy all, some body must néeds sel all: but it followeth not that therefore, Castor must sell all.

In Repugnant: Whitenes is a colour, therefore blacknes is no colour. It followeth not. For, as I sayd before, contraries generally are not such, of the which one and the same thing cannot bée affirmed, but such as cannot be affirmed of one and the same thing.

So in Relatiues. Tibullus lib. 1.

At vos exiguo pecori, furesq;, lupiq;
Parcite; de magno est præda petenda grege.

It followeth not, that because a pray is to bée taken of a great flocke, therefore nothing is to bée taken of a little one.

So in Priuatiues,

Hee that seeth is aliue, therefore
Hee that is blinde, is dead.

The 12. Chapter.

Of secondary Argumentes.

Thus much of originall and first arguments. The secondary remayneth which is made of the ioyning togither of the first, and argueth as the first doe from whence it is deriued, as the cause therefore argueth absolutely, so such secondary arguments as are made of the cause, and so in the rest, according as their seuerall kinde of arguing is.

The Argument made of the first is eyther Distribution or Definition.

Annotations.

RAmus to these two which I haue put downe, addeth other two, Coniugates, and Notation, as argumentes made of the first. As for Coniugates, I sée in them no new different force of arguing, as hée is iust, for hée dealeth iustly: heere is nothing in effect, but the cause and the effect. For as for the deriuation of this word, Iuste, from Iustice, it séemeth altogether grammaticall: and whereas they both do fitly allude in

the ende and falling, thus, Iustice Iust, Iustly, that commeth from a Rhetoricall figure, called Polyptoton, which concerneth the elegancie that is in the diuers fallinges and terminations of words.

So in Notation, the interpretation of the name, seemeth rather the dutie of a dictionary, then of any Logicall institution, as Argumentum ab arguendo: where againe there is no force of arguing but from the cause and the thing caused. For as for the pretty and conceipted chaunge of the word, argumentum ab arguendo, it seemeth also a Rhetoricall agnomination: yet as not fully resolued herein, I leaue them in these Annotations.

Coniugates or offsprings, bee words diuersly deriued from one head, as Iustice, Iust, Iustly, hee dealeth Iustly, therefore hee is iust. The primitiue word conteineth the cause of his offsprings, as here Iustice of iust dealing.

Aristotle commendeth this place highly 7. topic.

Canons.

If you put downe or remoue one Coniugate, you must put downe, or remoue the other: That which is giuen or taken, to or from the one: is giuen or taken, to or from the other: but here Contingency is more vsuall then necessitie, therefore heede is to bee taken in distinguishing the one from the other.

In 4. H. 7. 9. b. Un briefe de partitione facienda del terre et rent fuit port. Et Keble pleade pur le rent, que le def. fuit sole seisie, sans ceo que il tient pro indiuiso one le pl. et per Bryan, cest bon plee, car il n'auera partition del chose dont il ne ad ascun parte.

Coniugates from the cause.

Terence in Hecyra Act. 3. scœn. 4. Dedecet iam ira hæc, etsi meritò iratus es. This anger becomes you not, although you haue cause to bee angry.

From the thing caused.

Tully in his oration for his house: Primùm dico, Senatoris esse boni, in Senatum venire. First I say, it is the part of a good Senator, to come into the Senate house.

From

From the subiect.

Tully to Atticus, Quia homo es, humana tibi ferenda est ratio. Because thou art a man, thou must beare such thinges as are incident to men.

From the adiunct.

Tully in his epistles: Rege interfecto, regios omnes nutus tuemur. The king beeing killed, wee mainteine euery kingly becke and countenance.

Elenchs.

Some learned men bee lewd liuers, therefore learning is lewd: Where it should bee thus; Learned men liue lewdly, therefore they bee lewde: or thus, Learning maketh men lewd, therefore it is lewd.

Notation.

Notation or Etymologie, is the interpretation of the word. For wordes bee notes of thinges, and of all wordes eyther deriuatiue or compound, you may yelde some reason fet from the first arguments, if the notation bee well made. It is called Originatio, quod originem verborum explicet: and Etymologia, id est, veriloquium.

Nomina sunt argumenta, non quatenus ad rem significandam referuntur, sed quatenus referuntur vel inter se mutuò, vt coniugata: vel ad suæ originis interpretationem, quæ Notatio dicitur. Sed sic non considerantur vt nomina, id est symbola, sed vt res quędam, seu ὄντα quędam. *Piscator.*

Grammatica notatio exponit vocũ adsignificationẽ: Logica verò causam explicat, cur hoc nomen huic rei sit impositũ.

Piscator putat, à nomine ad rem significatam argumentari, nihil aliud esse quàm a testimonio argumentari: vt Christus in scriptura dicitur Deus, ergò est Deus.

Canons.

To whome the interpretation of the name agréeth, to that also the name it selfe and contrarily. Yet, sayth Corasius, ab interpretatione ad nomen ipsum deriuatum, sicuti est à genere ad speciem, desumpta argumentatio inanis est, quod etymologia latiùs pateat, quam nomen ipsum. Certè reciprocatio in his obscura & incerta est. Sed à deriuato ad deriuationem argui melius potest, vt tutor est, ergò tueri debet.

When the name is false, vnknowne, or ambiguous, then the reason is daungerous.

That which agreeth with the one, agreeth with the other.

Quips, taunts, iests, and conceipts are often fet hence.

All Platoes Cratilus is spent in the interpretation of words after this manner.

Nihil ambigi potest, ait *Cicero*, in quo, non aut res controuersiam faciat, aut verbum, in dictionibus igitur æquè atq; in rebus versatur Dialectica. *Hottoman.*

Examples of notations. From the cause.

Billinsgate, a gate in London builded by king Belus.

From the effect.

Prouident, of foreseeing future chaunces. And so in the rest.

Gospell, a good spell, or Gods spell, or saying. A Lordane signifieth an imperious idle fellow, of a lord Dane. Winchelsea, of wind, chilly, and sea: so in Latine it is called Frigmareuentus, of frigus, mare, ventus. Little Iohn, for that hee was wonderfully tall and bigge, heere the notation is from the contrary, as Lucus, quia non lucet, parcæ, quia non parcunt, Bellum, qua non bellum. & so of Ludus, Eumenides &c. Mutuum quasi meumtuum.

Victima, quæ dextra cecidit victrice, vocatur:
Hostibus à domitis, hostia nomen habet.

Arist. 2. Rhet. Draconis leges, non hominis, quod erant asperę. Dracoes lawes were a Dragons lawes, for their crueltie.

Territorium dicitur, quia magistratus eius loci, intra suos fines, terrendi, id est, coercendi ius habent.

The Court of pipowders incident to fayres, is called Curia pedis pulueri sati, for fayres commonly are dusty. 13. E. 4. 8.

Choke in 17. E. 4. b. Conclude que null contract serra, si non ambideux les parties simul consentiant. Car contractus dicitur à con, quod est simul, & traho, to draw together.

Seruus a seruando, as well as of seruiendo, quia seruabantur capti in bello, vt postea venderentur. Manumissio, quasi è manu dimissio. Mancipia, quasi manu capta. *Bracton* lib. 1. Fol. 4.

Dyer

Dyer semble que vn remaynder al feme pur vie apres le mort le baron, ne poet estre termed ne prise pur vne ioynture, purceoq; el doit prender estate ioyntment one son baron accordant al etymologie del parol, ioynture. 17. Elis. 50. Dyer.

Per Needham 4. E. 4. Præcipe quod reddat gist proper-ment vers le tenant del terre, de terris ou tenementis, car la il poet reddere: contra del comon de pasture appendant ou in grosse; la quod permittat gist que il suffer le demandant occupier son comon &c. Socage à soca. Littleton. 26, 7.

Fearmes, quasi feormian, qu'est vn Saxon paroll, signifi-ant pur feder ou render vittayle, car les auncient reserua-tions fueront pur le pluis part in vittayles et nemy argent. Termes of the law. pag. 967.

Aulnage, ex quo Aulnager, est le measure et le metter per le yarde, in Latine, Vlnagium & vlnator, ab vlna. 13. & 14. Elis. 49. Dyer.

Shyrēue, of two Saxon words, Geresa, a ruler, and Scy-ran, which is to cut: as it were the ruler of the shire. For the Realme is diuided and cut, as it were, into such partes, cal-led herevpon shires, and allotted to seuerall shyrēues as their shires. In Latine he is called Vicecomes, quasi vica-rius comitis, in seeing iustice executed in the shire, and the kinges reuenues brought in ærarium. Which the Counte, Earle, Comes himselfe should, but could not by himselfe, as attending for the most part vpon the king in warres, as the name beareth, Comes quasi comitans principem.

Constable, quasi Kyninstaple, or Kingstaple, the stay and hold of the king, for so was the Lord great Constable of Eng-land, who had authoritie in matters of warre within & with-out the Realme. Out of which office this lower Constable-ship was first set. 13. E. 3. Stat. Winchester: where two con-stables in euery Hundred were appointed to take view of armour.

Mythingman, Headborough, Chiefepledg, Borsholder, is in a manner all one with a petite Constable. Although be-fore William Conquerour it was ordeined, that all frē borne men should cast themselues in companies by ten in ech com-pany, and that euery of the ten should bē pledge and surety

for his fellow, and amerced for his default if he escaped. Hereof these companies bee called Boroes or Borhes, a pledge, and Tything of ten. And because ten of these companies sometimes met for matters of weight, and ten times ten is an hundred, their generall assembly was called an hundred. The speaker and chiefe man was called the Tythingman, the Borsholder, quasi elder Boroe, and head-borohe, chiefe pledge. In these meetings among other things it was obserued, that euery of these pledges should yearely bee presented by the chiefe pledge at a generall assembly, yet called the view of Frankepledge, visus Franciplegij, or the Leete court. Maister Lambard.

Lathes, Rapes, and Wapentakes, be so called of the diuisions of partes of shires. Lathe is a barne, Rape a reaping. Sir Thomas Smith thinketh them to bee names of seruice, for that so many townes met in one day to reape or carry the Lords corne into his barne, and Wapentake of taking weapons, for that in those assemblies, hee that could not find suretie for his good abearing, had his weapon taken from him.

But M. Lambard in legibus Edwardi regis, writeth thus.

Totus ille conuentus dicitur Wapentac, eo quod per tactum armorū suorum ad inuicem confederati sunt: of *Wepun* & *Tac*, tangere vel confirmare, quia omnes præsentes cum lanceis suis tangebant hastam præfecti ipsius Wapentachij, & ità se confirmabant.

Bracton. Dicitur ideò breue, quia rem de qua agit, & intentionem petentis, paucis verbis breuiter enarrat, &c.

Maister Plowden. Fol. 357. a. Quia fines in curia nostra leuati finem litibus debent imponere & imponunt, ideò fines vocantur maximè. Sic Fol. 368. b. ex *Bracton*. Finis est extremitas vniuscuiusq; rei, hoc est, idem in quo vnaquęq; res terminatur, & ideò dicitur finalis concordia, quia imponit finem litibus.

Fol. 250. a. b. Et le nosme del estate fée tayle fuit done sur le certeintie del inheritance, come Littleton dit, car il dit, que Talliare, idem est quod in certitudinem ponere. Et pur ceoq; en le done il est expresse de que corps les heyres que enheritont, isseront, pur cel cause il prist, que il fuit appelle

tayle.

tayle. Ou pluſtoſt puit auer le noſme de ceſt Francois paroll, tayler, lequel eſt decowper, car a tayler boys, eſt a cowper poys, et purceoq; l'eſtate eſt docked, ou cut off (car deuant il fuit fée ſimple, et a ore le fée eſt deciſe de ceo, et l'eſtate per ceo eſt docked, cut off, ou fait meynder) il poet bien eſtre dit eſtate tayle, ceſtaſcauoir, eſtate decoupe, deciſe, ou deminue.

Fol. 193. a. Terres venues en mains des homes de religion, ſont appelle en ley de viender en mortmayne, per le reſemblance (come Weſton Juſtice dit) al tenure d'un home en extremes, que tient en ſon mayne quecunq; que il ſoit, tanq; que il ſoit mort. Et iſſint le continuance del inheritance en ceux de religion eſt ſuppoſe cy longement, que le meaſon continue. Vide Doctor & Student accordant oue ceo. pag. 172. a.

Fol. 198. b. Et le paroll, Erpiration, eſt properment breathing vp, ou yéelding vp the breath. come le ſeigniour Dyer dit, et eſt apply al home ou auters choſes animate: et eſt vſe pur le mort d'un home; car quant il yéelde vp his breath, adonques il morust, car ſans ſon breath il ne poet viuer. Et comentq; il eſt properment vſe a choſes animate, que breathont, vncore per vn ſimilitude il eſt referre al choſes inanimate. Come vſomus en noſtre ley, Reuerter, que eſt properment vſe in choſes animate que ſoy remouent: mes aſcun foits nous vſomus ceo in choſe inanimate, come diomus, lou tenant en tayle morust, le terre reuertera al donor. Et iſſint erpiration vſe icy per ſimilitude del choſes viuant, implye fine quecunq;. Car come ſignifiomus per erpiration le mort del home, et ſon darreine fine, quecunque voy, que il vient, iſſint ceo paroll, erpiration, adde al eſtate pur ans, poet aptement ſignifier le fine de ceo quecunq;. Et iſſint erpiration del eſtate pur ans, et fine del eſtate pur ans, eſt tout vn.

Court baron, of Barones, quaſi virones, magnates, among the Saxons called Thani. Court Léete, of the Saxon word Lant, which is law, ſo Lant-day by corruption of ſpéech is come to be called Law-day. Barretor, of the French Barat, deceipt: or of the Latine, Baratro, or Balatro, a vyle knaue. Apprentice of Apprendre to learne. Seſſions à ſedendo. Acquittance, quaſi acquietantia, &c.

Inditement, of the French word, Enditer, which Ste-

phanus, deriueth from the Greeke ἐνδείκνυμι, defero, accuſo, poſtulo in iudicio, and ἐνδείκνυμαι, deferor, cauſam dico quod circa publica ſecus aliquid admiſerim. Hereof is ἔνδειξις, delatio, and ἔνδεικτης, delator, quadruplator. Maiſter Lambard in his Iuſtice of peace. lib. 2. cap. 5. ſayth thus. The vnderſtanding or knowledge which the iuſtices of peace doe take by the trauaile of theſe enquirours is by the meane of their report, put in writing, and commonly called an enditement, or preſentment: betweene the which two words (howſoeuer they bee confounded in common ſpeech) mee thinketh that there doth eaſily appeare a certaine difference. For I take a preſentment to bee a meere denuntiation of the iurors themſelues or of ſome other officer without any other information: and an enditement to be the verdict of the iurours, grounded vpon the accuſation of a third perſon. So that a preſentment is but a declaration of the Iurours, or officers without any bill offered before, and an enditement is their finding of a bill of accuſation to bee true. The one ſeemeth to come of the Greeke ἐνδείκνυμι I accuſe, the other of the French, preſenter, to offer vnto a man, or ſet before him.

Maiſter Lambard: Iuſt. lib. 2. cap. 16. Hereof alſo the fine toke firſt his name, of the Latine Finis, becauſe it maketh an ende with the Prince for the impriſonment, for the offence committed, againſt his law, and in that reſpect chiefly doth it differ from an amerceament. For when the offender hath not ſo deepely treſpaſſed, that thereby hee deſerueth not any bodily puniſhment at all (as if hee bee nonſuite in an action, or doe commit any ſuch like default) hee is ſayde to fall into the kinges mercy, becauſe hee is then mercifully to bee dealt with. And by the great charter, cap. 14. that amerciament and ſumme of money which hee is to pay for ỹ ſame, ought to bee aſſeſſed and affeered by the good and lawfull men of the neighbourhood, which alſo Glannil, lib. 9. cap. 11. affirmeth to haue bene the lawe of the land long before that time, ſaying miſericordia domini regis eſt, qua quis per iuramentum legalium hominum de vicineto eatenus amerciandus, ne aliquid de ſuo honorabili contenemento amittat. But when the offence or contempt falleth out to bee ſo great, that

it

it asketh the imprisonment of the body it selfe, and that during the kings will and pleasure, then is the party to redéeme his liberty with some portion of money, as he can best agree with the king or his Justices for the same, which composition is properly called his fine, or his ransome, and in Latin Redemptio, as may be plainly seene by the statute of Marlebridge, 52. H. 3. cap. 1. 2. 3. & 4. and by the statute called Ragman, and diuers other auncient statutes.

The humanitie and conscience which Christian religion doth teach, hath ingendred a certeine feare and scruple in the hartes of our men, to haue slaues and bondmen. Yet necessity on both sides, of the one to haue helpe, and the other to haue seruice, hath kept a figure or fashion thereof. So that some would not haue bondmen, villeins in grosse, as ye would say immediately bond to the person and his heires; but ascriptitios glebæ, or agris censitos, and villeins regardant and bond to the manor or ground, as members belonging to the place, and following him who had the place; to the intent their seruice might bée furnished, and that the country béeing euill, vnwholesome, and otherwise barren, should not be desolate. Others afterwards found out the wayes and meanes, that not the men, but the land should bée bound, and bring with it such bondage and seruice to him that occupyeth it, as to carry the Lords dunge vnto the fieldes, to plow his ground at certeine dayes, sowe, reape, come to his court, sweare faith vnto him, and in the ende to holde the land but by the copy of the Lords Court roll, and at the will of the Lord. This tenure is called also in our Law, villeine, bond, or seruice tenure. Yet, to consider more déepely, all land, euen that which is called most free land, hath a bondage annexed vnto it, not as naturally the lower ground must suffer and receiue the water and filth which falleth from the higher ground, nor such as Iustinian speaketh of de seruitutibus prædiorum rusticorum & vrbanorum; but the lande doth bring a certeine kinde of seruitude to the possessor. For no man holdeth lande simply free in England, but he or she that holdeth the crowne of England: all others holde their land in fée, that is vpon a fayth or trust, and some seruice to another Lord of a manor as his

ſuperior, and he againe of a higher Lord, till it come to the prince and him that holdeth the crowne. So that if a man die, and it bee founde that he hath lande which he holdeth, but of whom no man can tell, this is vnderſtood to be holden of the crowne, and in capite, which is much like to knights ſeruice, and draweth vnto it three ſeruices, Homage, ward, and mariage: that is he ſhall ſweare to be his man, and to be true vnto him of whome hee holdeth the land. His ſonne who holdeth the land after the death of his father, ſhalbe married where it pleaſeth the Lorde. He that holdeth the land moſt freely of a temporall man (for francke almes and francke mariage hath an other cauſe and nature) holdeth by fealtie onely, which is, hee ſhall ſweare to bee true to the Lord. So that all free land in England is holden in fee, or fedo, which is aſmuch to ſay, as in fide or fiducia, that is, in truſt and confidence, that hee ſhalbe true to the Lorde, of whome he holdeth it, pay ſuch rents, doe ſuch ſeruice, and obſerue ſuch conditions, as were annexed to the firſt donation. Thus all, ſauing the Prince, bee not veri domini, but rather Fiduciarij domini & poſſeſſores. This is a more likely interpretation then ỳ which Littleton doth put down in his booke, who ſayth that fœdum, idem eſt quod hæreditas, whith it doth betoken in no language. This happeneth many times to them who bee of great wit and learning, yet not ſeene in many tongues, or marke not the deduction of wordes which time doth alter. Fides in Latine, the Gothes comming into Italy, and corrupting the language, was turned firſt into fede and at this daye in Italy they will ſaye, in fide, en fede, or a la fe. And ſome vncunning lawyers that would make a newe barbarous Latine worde to betoken land giuen in fidem, or as the Italian ſayth, in fede, or fe, made it, in feudum, or fedum. The nature of the word appeareth more euident in thoſe which wee call to feffe, feoffee or feoffees, the one be fiduciarij poſſeſſores, or fidei cõmiſſarij, the other is, dare in fiduciam, or fidei commiſſum, or, more Latinely, fidei committere. The like erro is in Wythernam, which ſome interprete vetitum nauium: whereas in trueth it is in playne Dutch, and in our old Saxon language

wyther

wyther nempt, alterum accipere: iterum rapere: nâm is, pignoris ablatio. wyther. signifieth altera. But to returne thither where wée did digresse: yee see that where the persons bée frée, and the bodies at full libertie and maxime ingenui, yet by annering a condition to the land, there bee meanes to bring the owners and possessors thereof into a certaine seruitude, or rather Libertinitie: that the tenantes, besides paying the rent accustomed, shall owe to the Lord a certaine fayth, duetie, trust, obedience, and, as we terme it, certaine seruice, as Libertus or cliens patrono: which, because it doth not consist in the persons, (for the respect in them doth not make them bonde) but in the land and occupation thereof, it is more properly expressed in calling the one tenant, the other Lord of the fée, then either Libertus or cliens can doe the one, or Patronus the other: for these wordes touch rather the persons, and the office and duetie betweene them, then the possessions, but in our cause, leauing the possession and land, all the obligation of seruitude and seruice is gone.

So much haue I collected out of sir Thomas Smith, concerning this word fee, lib. 3. cap. 8.

Maister Lambard. Iust. lib. 2. cap. 14. Arraignement séemeth to haue borrowed the name out of the worde Arraye, which is the pannell or iurie, because hee that is arraigned, must be tried by them, being first called, sworne, and tryed in order for that seruice.

Maister Lambard. Iust. lib. 1. cap. 13. This sauing then, or deliuery of a person out of prison, before hée hath satisfied the law, is vttered by three tearmes in our statutes, that is to say bailement, mainprise or manucaption, and repleuine: and they bée indifferently vsed to expresse that suretie, which the prisoner is to finde in such a case. Neuertheless it seemeth that a repleuine had his original of the word, pledges, which denoteth them that vndertake for the partie, that hee shall abide to be iustified by lawe: and it is vsed in diuers other cases, as in repleuine of cattell vpon distresse, repleuine of fraunchises in a quo warranto, repleuyne of land vpon a grand cape in olde time, and repleuine of the person of a man in case of villenage.

Baylement is deriued from the French terme Bayler, and that also commeth of the Greeke βάλλω, they both signifiyng to deliuer into hande. For hee that is bayled, is taken or kept out of prison, and deliuered, as it were, into the handes of his friendes, as sureties for him. Whereof also the worde Manucaptio, or Mainepryse, which is all one, giueth good euidence, the one mentioning the deliuery, the other the receyuing. And in this respect, the booke of the Norman customes calleth baylement, a liue prison, for that the party thereby becõmeth prisoner to his frendes that do vndertake for him.

Maister Lambard. Iust. lib. 1. cap. 21. As in olde time euerie killing of a man was of the effect, called Murder, because death ensued of it (and of the Hebrew worde Moth, saith Postellus, commeth the Latine Mors, which the Saxons our elders, called Morth and Morthor, as wee yet sound it) so was that wilfull manner of slaying with malice prepensed, long since, and most properly, called Felony, because it was done felleo animo, in malitious heate and displeasure, and therefore per feloniam, as the statute at Marlebridge cap. 15. doth plainely tearme it.

Maister Lambard. Iust. lib. 2. cap. 19. Riot seemeth to come of the French worde Rioter, which signifieth to brawle or scolde; for that commonly Riots indeede, do follow of brawling in word. And it is taken to bee where there is any vnlawfull assembly (An vnlawfull assembly is the company of three persons or more gathered togither to do such an vnlawfull act, although they do it not indeede) of men gathered together, and going about to commit an vnlawful act, and they do execute it indeede, as to beate a man, or to enter vppon a possession forcibly, or such like.

Our Rout is the same which the Germains yet call Rot, meaning a band or great company of men gathered togither, and going about to execute, or executing indeede any Riot or vnlawfull act. And, saith Marrow, it is saide properly of the multitude that assemble themselues in such disorderly sorte for their common quarrell: as if the inhabitants of a towneship do assemble to pull downe a hedge or pale, to haue their common, where they ought to haue none. to beate a man that

hath

hath done them some publike offence or displeasure.

M. Lambard. Iust. lib. 1. cap. 17. The wordes Affray and Assault bee indifferenfly vsed of most men, and that in our booke cases, but yet in myne opinion, there wanteth not a iust difference betweene them. For Affray, is deryued of the French, Effrayer, which signifieth, to terrifie, or bring feare, and is the more hainous trespasse: for the Law vnderstandeth it to be a common wrong, and therefore it is enquirable and punishable in the turne of the shiriffe, and in a leete. 4. H. 6. 10. and 8. E. 4. 5. Otherwise it is of an assault, as it semeth by those very bookes. Yet may an affray bee without word or blow giuen: as if a man shall shew himselfe furnished with armour or weapon, which is not vsually worne and borne, it wil strike a feare into others that be not armed, as hee is, and therefore both the statute of Northampton. 2. E. 3 cap. 3. made against the wearing of armour and weapon, and the writ therevpon grounded, do speake of it, by the words, Effray del pais, and in terrorem populi.

But an Assault, as it is fetched from another fountayne, namely from the Latine Assultus, which denoteth a leaping or flying vppon a man: so can it not bee performed without the offer of some hurtfull blow, or at the least of some fearfull speech. And therefore to rebuke a collector with fowle words, so that hee departed for feare without doing his office, was taken for an assault. 27. lib. Ass. Pl. 11. And to strike at a man although hee were neither hurt, nor hit with the blowe, was adiudged an assault. 22. lib. ass. pl. 60. For this assault doth not alwayes necessarily imply a hitting: and therefore in trespasse of assault and battery, a man may bee founde guilty of the assault, and yet excused of the battery. 40. E. 3. 4. and 45. E. 3. 24.

Estreates are called of the word Extracta, because they bee short notes or memorials, extracted or drawne out of the Records by the Clarke of the peace, and by him indented and deliuered sunderly to the shiriffe, and to the barons of the Eschequer, bearing this, or the like title: Extracta finium, amerciamentorum forisfactorum, ad generalem sessionem pacis tentam apud Maydstone &c. coram &c. For the whole

forme of the making hereof, there is full direction giuen to all clerkes of estreates, by the statute. 7. H. 4. cap. 3. whereunto I referre them.

I haue purposely inserted a number of notations, for that I would make it plain, how the notion of the thing is oftentimes expressed by the notation of the word, contrary to the preiudicate opinion of some sely penmen, and illogicall lawyers, who thinke it a fruiteles poynt of superfluous curiositie, to vnderstand the wordes of a mans owne profession.

Elenchs.

A Woman is a woe man, because shee worketh a man woe. Agreamentum, quasi aggregatio mentium. But all the sport is to heare the Pynnish notations of wordes both Greeke and Latine, whereof they knew neither sence nor signification, as Diabolus, of Dia, that is two (say they) and bolus, which signifieth a morsell, because the deuill maketh but two morsels of a man, one of the soule, and another of the body. Hypocrisis, of ὑπὸ, which is ouer, and χρυσὸς, gold, because hypocrites bee cloaked with a golden shew ouercast: whereas the one commeth of λιάθαλμὸν, to call in accusations: the other of ὑπόκρινομαι, to dissemble.

The 13. Chapter.

Of Distribution.

IN Distribution and Definition there is a most necessary reciprocation or conuersion: in distribution, of all the parts with the whole: in definition, of the thing defined, with the definition it selfe.

A distribution is, when the whole is distributed into his partes. And as the distinguishing of the whole into his parts, is called Distribution: so the collection or gathering together of all the parts to make vp the whole, is named Induction.

Distribution is made of arguments which are agreeable to the whole, but disagreable among themselues: so that it is so much the more perfect distribution, by how much the

partes

partes do more agree with the whole; and disagree among themselues.

Annotations.

REciprocation:] In other arguments not necessary. For it is not in all causes, but onely betweene the forme and the thing formed: not in all subiects, but betweene the subiect and his proper adiunct, not in all contraries, but onely in Relatiues. Whereas in distribution and definition, the reciprocation is perpetuall.

Such is the excellency of distribution and definition, that almost they alone do suffice for the absolute putting downe of any art. Therefore Socrates in Phædro Platonis sayth, that if he finde any man who can cunningly diuide, he will follow his steps, and admire him for a God.

[Induction:] Therefore as the one is an argument, and no argumentation, so also is the other. Nam Inductio arguit distributum siue totum, sine vlla dispositione tertij argumenti.

[More agree with the whole:] For in distribution of the subiect and adiunct, the partes and the whole do not essentially agree, as we shall see hereafter. Therefore by this rule the best diuision is from the cause and effect. Againe, the more that the partes do disagree among themselues, the better is the diuision. By which it appereth that the best diuision must be of partes that be most repugnant, which can bee but two, therefore Dichotomia is most excellent, a diuision consisting onely of two partes. For, as among agreeable arguments the cause and thing caused do best agree, so of all disagreeable, the repugnant be most disagreeable. But as in the most generall and subalternall, Dichotomia must bee obserued, so in the most speciall it is not to be exacted.

Elenchs.

Plato in Phædro compareth inartificial diuiders to bungling Cookes, who in stead of artificiall carving, vse rudely to breake and dismember thinges. This is a lamentable want in our law, I meane exact diuisions, in place whereof wee haue nothing els, but eyther A B C methode without coherence, or primo notandum, 2. not. 3. not. 4. not. & so on till

hée come to decimotertiò notandum, like dunses in schooles, and sélly bablers in pulpits: that a man were farre better make a new spæch, than remember their walte and confused Schediasmata. Lyttleton did what hée could in this behalfe, although it were but litle, as in those his distinctions, Estate taile is generall or speciall: Dower is per le comen ley, per custom, ad ostium ecclesiæ, ex assensu patris, de la pluis beale. Willen per prescription ou confession: Item in gros ou regardant. Rent est rent seruice, charge, seck. Conditions in fayt, en ley. Garrantie, lineall, collaterall, per disseisin, &c.

Well then, one generall Elench in a distribution, is the not vsing of it, when the matter requireth. Another is, when wée vse it, but inartificially, when any thing eyther wanteth in it, or is superfluous. Want, as in that which Virgil hath 5. Aeneid. where hée propoundeth in his distribution onely foure kindes of exercises, but afterwards expoundeth fiue.

Prima citæ Teucris ponam certamina classis,
Quiq; pedum cursu valet, & qui viribus audax,
Aut iaculo incedit melior, leuibusq; sagittis,
Seu crudo fidit pugnam committere cestu,
Cuncti adsint, meritæq; expectent præmia palmæ,
Ore fauete omnes, & cingite tempora ramis.

For besides these foure, followeth the fift, not named here in the distribution, and that is the race of horses.

For superfluitie, that shall serue which Tully hath in his second booke De finibus, where hée speaketh thus of Epicurus.

Quomodo autem philosophus loquitur tria esse genera cupiditatum? Naturales & necessarias, naturales & non necessarias, nec naturales nec necessarias. Primùm diuisit inleganter: duo enim genera quæ erant, fecit tria: hoc est, non diuidere, sed frangere rem. Qui si diceret, Cupiditatum duo esse genera, naturales & inanes: naturalium quoq; duo, necessarias & non necessarias, confecta res esset. Vitiosum est enim in diuidendo, partem in genere numerare.

The

The 14. Chapter.

Of Distribution of Causes.

Distribution is made eyther of argumentes fully agreeable, or agreeable in parte: fully as first of the cause.

The distribution made of the cause is, when the partes are the causes of the whole. And this is called partition, when the whole integrall is diuided into his members.

Hobbinoll confuteth Diggon Dauy in September, proouing by a distribution of England into her parts, no Wolues to bee in England.

Fye on thee *Diggon*, and all thy fowle leasing,
Well is knowne, that sith the Saxon king,
Never was Woolfe seene, many nor some,
Nor in all Kent, nor in Christendome.

For most parte of England beeing Christian in Ethelberts time, Kent onely continued in Paganisme, and was therefore counted no parte of English Christendome. So that partition is vsed both in a distinct propounding of partes, where any long matter is to bee handeled of Poets, Orators, Preachers, Lawyers, &c. and also syllogistically in arguing eyther the whole by the partes, or the parts by the whole.

Paiker Plowden. Fol. 170. a. Terre ne poet perteigner al messuage. Car messuage consist de deux choses, del terre et structure, et terre ne poet perteigner al terre, &c.

Fol. 151. a. Reuersion del terre consist des deux choses del terre, et del residue ou remnaunt estate. Come Manor del seruices et demesne; stagnum del terre et eawe; Piscaria del eawe et terre &c.

Annotations.

E Causis singulis distributio esse potest. Ex efficiente, vt ius est naturale, ciuile, gentium; ex materia: vestes sunt laneæ, lineæ, &c. Ex forma, lanx est, quadrata, rotunda, &c. Ex fine, vestes sunt induendi causa, vel præcingendi, instrernendi, &c.

For the Elenchs touching distribution of the integrall, see before in the tractate of the integrall.

The 15. Chapter.

Of distribution of Effects.

THe distributiõ of the thing caused or of the effects is, whose parts are effects of the whole, and this is properly called Diuision, when as the generall or vniuersall is diuided into his specials. And as the first called Partition; so this called diuision is handeled as well in forme of Distribution, as in arguing the one by the other.

Maister Plowden. Fol. 132. b. Il n'est rente: car si serroit rent, adonq; il coupent de necessitie d'estre rent charge, rent seck, ou rent seruice, car ne sont plusors rents que ceux trois, et rent charge il n'est my, car null distres est done, nec alcun terre charge oue ceo, nec seck ou seruice, quia n'est issant hors d'alcun terre, Ergò n'est rent.

Elenchs.

Althusius thus diuideth vnlawfull pleasures: into stuprum and adulterium. Stuprum inter personas solutas, and is voluntarium or violentum. Voluntarium fit ab extraneis, aut à consanguineis, vt incestus. Ab extraneis, naturaliter, vel contrà naturam: naturaliter à mare & fœmina. Contra naturam, à mare cum mare, à fœmina cum fœmina, aut cum bestiijs: Adulterium est cum alterius coniuge vel marito. The whole constitution of this diuision is erroneous. For most of the things which are conteyned vnder stuprum, may as wel, and do as well belong vnto adulterium. Fenners diuision therefore is farre better: where hée sayth they bée

Præter naturam, or secundum naturam: præter naturam est vel coufusio tum specierum, tum sexuum, vel incestus. Specierum, cum bestiæ verè vel spiritus specie hominibus miscentur voluptatis causa; sexuum, confusio est, cum mares maribus, fœminæ fœminis miscentur. Incestus sunt, cum propinqui carne miscentur etiam in coniugio,

Secundum

Secundum naturam est scortatio vel adulterium: Scortatio est, cum matrimonio soluti illegitimè miscentur. Adulterium, cum altera persona saltem sit desponsata. Nam si vtraq; sit desponsata, grauius est adulterium.

It is all one whether the generall bee diuided into his specials, or into the formes of the specials, as Animal is eyther rationale or irrationale, where the specials bee as significantly put downe as if they were expressed by their owne proper names, man and beast.

The 16. Chapter.

Of Distribution of argumentes after a certeine maner agreeable.

The second kinde of Distribution is made of argumentes agreeable after a certeine manner, as of subiects and adiuncts.

The Distribution made of the subiect is, when the partes are set from the subiect.

Hobbinoll in his song of Elysa, diuideth her beauty being the adiunct, into her seuerall subiects, as, face, eye, cheeke, &c.

Tell mee, haue yee seene her angelike face
like *Phœbe* fayre?
Her heauenly hauiour, her princely grace
can you well compare?
The red Rose medled with the white yfeare,
In eyther cheeke depaynten liuely cheare?
Her modest eye,
Her maiestie,
Where haue you seene the like but there?

M. Plowden Fol. 279. b. Et quant a ceo, trops y sont (come Walshe dit) que ount a intromitter oue les biens del mort, cestassauoir, l'executor, le ordinary, et les administrators &c.

The Distribution of the adiunct is, when the partes are set from the adiuncts.

Diggon in September.

For eyther the shepheards bene idle and still,
And led of their sheepe what way they will,

Or they bene falſe or full of couetiſe:
And caſten to compaſſe many wrong empriſe:
But the more bene fraught with fraud and ſpite,
Ne in God nor goodnes taken delite.

Maiſter Plowden Fol. 328. Mynes de plumbe ſont fertile, ou ſterile, &c,

Annotations.

PIſcator would haue ſome diuiſions to bée of thinges, as thoſe that Ramus hath put downe: and ſome of wordes, to diſtinguiſh the diuers acceptions of ambiguous wordes, as Littleton pag. 51. in this word Aſſiſe, which he ſaith is equiuocum, &c. But that belongeth rather to a Dictionary-maker, then a teather of Logike, ſaith one. And, indéede, as another aunſwereth, words bée diuided together with the things: as Liberty and frædome is eyther bodily or ſpirituall: where, as well the thing, as the word is diuyded.

All Logike is generall, and applyable as well to thinges imagined, as things that bée extant in truth: and therefore to words alſo, as wordes haue cauſes, effectes, ſubiectes, adiuncts, and other arguments to bée conſidered. Logicus, ſaith *Hottoman*, inſitam vocum inter ſe rationem, habitum, reſpectum, affectionem: Grammaticus tantùm accidentia, & popularis ſermonis in ijs iungendis conſuetudinem exquirit, &c.

Sith theſe two laſt kindes of diſtribution bée ſayde to bée made of argumentes agréeable after a certeine manner; wée are to vnderſtand, that neyther the whole héere, is of the eſſence of the partes, nor the parts of the nature of the whole: ſo that this is no true diſtribution indéed, but rather an imagined diſtinction. And theſe bée partes, not of any whole, but rather of order, diſtinction, and particular rehearſall or enumeration.

Canons.

Therefore if you affirme or deny, either the adiunct which is the whole, or the ſubiects which bée the partes, you may contingently affirme or deny the one or the other.

And ſo in the other of the adiunct, the adiunctes as partes béeing affirmed, the ſubiect as whole may be alſo affirmed.

Diſtrib. in Sub.

Stamford. prærog. reg. cap. 1. For which cause the lawes do attribute vnto him (the king) all honour, dignitie, prerogatiue and preheminence, which prerogatiue doth not onely extend to his owne person, but also to all other his possessions, goods, and cattels. As, that his person shall bee subiect to no mans suite, his possessions cannot bee taken from him by any violence or wrongfull disseisin: his goodes and cattels are vnder no tribute, toll, or custome, nor otherwise distreignable.

Elenchs.

If a false adiunct bee diuided into false subiects: as arguments bee eyther affirmatiue or negatiue. Or if a false subiect bee diuided into vnfit adiuncts, as spirits some be white, some blacke.

The 17. Chapter.

Of a Definition.

A Definition is that which declareth what a thing is: it consisteth on two parts, the generall and the difference. Whereof the first is common to the thing defined, and all his other fellow specials, but the difference is proper onely to the thing defined, and distinguisheth it from all other his fellow specials.

A definition is perfect or vnperfect; whereof the first, for the excellency, is called definition by the common name: the second is tearmed a description, by a more speciall tytle or word.

A perfect description is that, whose difference is set from the formall cause of the thing defined, as, A man is a sensible creature endued with reason, where, sensible creature is the generall, and endued with reason, is the difference: so that whatsoeuer is in a definition placed after the generall, that I call in this place the difference.

By an argument from the definition, Piers in May proueth hyrelinges, to bee no shepheardes, because the true definition of a shepheard agreeth not with them.

Thilke same bene shepheards for the Deuils stead,
That playen whilest their flockes be vnfead.

Where after followeth a definition (a cuntrey definition) of an hirelyn, by application whereof vnto them, hæ prouveth them to bæ hyrelings.

Well is it seene their sheepe be not their owne,
That letten them run at randome alone:
But they bene hyred, for little pay,
Of others that caren as little as they,
What fallen the flocke, so they han the fleece,
And get all the gaine paying but a peece.

Maister Plowden Fol. 54. b. Car couyn, solonq; le vray definition de ceo, est vn secreate assent, determine en les cœurs de deux ou pluisors homes, al preiudice d'auter. Come si tenant pur vie voyle secretement conspirer oue vn auter, que l'auter recouera en preiudice de celluy en reuersion. Car per ceo son reuersion serra toll. Et ceo conspiracy est et poet estre terme, et dit couyne; car touts les parts del couyne sont la perimplies. Car la est vnitie de lour deux cœurs; et est secretement fayt, et est en preiudice del tierce person, et illint perfect couyne sans mayheme ou blemish.

Fol. 261. a. Et quant al qualitie del offence, quel le offendor icy ad fayt, il dit, que est in degrée del murder, et nemy de manslaughter. Car manslaughter est le occider del home felonniousement sans malice prepense. Mes murder est occider del home sur malice prepence. Et icy le occider de luymesme, fuit prepence et resolue en sa ment deuant le act fayt. Et auri il agrée in auter point oue l'auncient definition del murder, que fuit tiel, Murdrum est occulta hominis occisio, nullo præsente, nullo sciente. Illint icy sir James Hales secreatement surround luymesme, ne autrement il serroit stay ou interrupt de ceo fayre.

Fol. 359. a. Le seignieur Dyer define clayme en tiel maner; Clayme est challenge per ascun home del proprietie ou ownership del chose que il ne ad en possession, mes que est deteigne de luy per tort.

Annotations.

Annotations.

Definition is not set among the last, as though it were one of the worst, but because it is made of those other going before, and therefore cannot bee conceiued without them.

Heere wee teach what a definition is, and how to make it, therefore it commeth after the other argumentes of which it is made: but in the tractate of Methode, wee shew how and where to place a definition already made; and therefore according to her excellency, we allow her the first place.

Diuisio est quasi sectio rei in partes: Definitio contra, quasi collectio & comprehensio partium ad rem explicandam.

Theloall hath taken some more paines in defining and diuiding a writ, than eyther the author of the Register, of old Natura breuium, or Fitzherbert. Theloals definition is alreadie put downe elsewhere.

Tenant in fesimple est celuy que ad terres ou tenements a tener a luy, et a ses heyres a touts iours. Littleton pag. 1. Disseisin est vn tortious oulting del francktenant per entrée nyent congeable. 62. a. Plowden.

Nous voulons que prisone soyt tenue place per nous bounde dedeins certeyne bounds assignes pur le garde del corps del home. Brytton 17. Appele est pleynte de home fait sur auter, ouelq; purpose de luy atteyndre de felony par mots a ceo ordeynes. Brytton, when hee had thus defined matrymony. Fol. 246. Matrimony est assembly de home et de feme, a lour deux assents par ioynture de saynt eglise, pur demorer ensemble auxi come vn chayre a touts lour vies, sans espoyre de partir: afterwardes. Fol. 252. hee prouueth that if a man haue two wiues, the second is not feme de iure by this definition, thus; et deux ne poyt il my auer a vne foits, sicome apiert per le definition de matrimony, ou est dit, que matrimony est assembly de home et de feme, et nemy de home et femes, ou feme et homes, mes singulerment feme et home. It is shame that Brytton were not newly printed, and pittie that hee and Bracton bee no more reade: for though the Law bee much altered since their time, yet there is no essentiall part of the Law, which hee and Bracton do not define, diuide, and handle accordingly. So that by discretion a man shall by

one chapter of Brytton more plainely perceyue the nature of Garde, villen, &c. then by turning and tossing of forty vncoherent cases in yeare-bookes, which do not expound the nature of, Gard. villen, &c. but are spent in the determination of some obscure poynt touching Gard, villen, &c. and do presuppose a generall notice of them, before wee come to the examination of particular difficulties discussed in yeere-bookes. And indeed it seemeth a preposterous thing to iangle of moote conceiptes in Essoyne, Protection, &c. not knowing what an Essoyne is, what a Protection meaneth. But as in Vniversities, so in Innes of Court, the greedy desire of a superficiall shew in vnnecessary tryfles maketh vs want the true substance: they for hast to get a prebend by a degree, make light worke and run ouer two or three Epitomes; and we by a moote booke and a Brookes abridgement climbe to the barre, & bar our selues vtterly from the substance of the cõmon Law. But omnis definitio in iure ciuili periculosa est, and so in the common Law. Thats true, but P. Theloall, as also Freigius, who is of the same minde, mistooke the word; for I thinke Vlpian, by this word, Definitio, meaned not the Logical definition which expoundeth the nature of a thing, but breuem & circumscriptam quandam iuris sententiam, quam iurisconsulti regulam, Dialectici *Thesin*, seu positionem; Medici *Aphorismum* nominant. And yet, bee it as it may bee, I doubt not but who so attempteth to make Logicall definitions in the Law, shall finde it somewhat daungerous, because it is very difficult.

Cambiparticipes sunt, qui per se vel per alios placita mouent, vel mouere faciunt, & ea suis sumptibus prosequuntur, ad cambipartem, vel pro parte lucri habenda. Stat. an. 33. E 1.

Tostum est ou meason ad esse, et ore est nul mesuage, mes le site del meason apiert. Curtilagium est vn soyle ou garden apperteignant a vne mease, quasi curta pecia terræ. Fayrfax. 21. E. 4. 52.

Glanuil. lib. 9. Fol. 7. Dicitur autem purprestura, vel porprestura propriè quando aliquid supra dominum regem iniustè occupatur, vt in dominicis regis, vel in vijs publicis obstructis, vel in aquis publicis transuersis a recto cursu, vel

quando

quando aliquis in ciuitate super regiam plateam aliquid ędificando occupauerit, &c.

24. H. 7. 12. Reade. Mispriſion properment eſt lou vn choſe eſt agrée deſtre vray, come noſme del ville ou del perſon, et puis en meſme cel plée, cel choſe eſt autrement noſme, Coms ou ieo ſue noſme en formedome R. Reade, a que ieo face defence, et en mon barre ieo moy entitle per le noſme del T. R. ceo ſerra amend, car ſerra entend que le clerke fuit ignorant que ceo eſcript iſſint. Mes ſi en briefe vers moy per le noſme de R. ieo dy, vous aues cy le dit T. ceo neſt miſpriſion amendable.

In ſtead of geuing a true definition or explication of the nature & eſſence of any thing in our lawe, theſe ſingleſowld Lawyers and golden Aſſes aunſwere, ὡς ἐν τυπῳ: put downe a particuler caſe, as if I ſhoulde aſke what is a man: A man, ſay they, is ſuch a thing as Willy the milman: Robin the pannierman, &c. Where a generall definition bęing put downe, woulde giue a ſpeciall light to the matter in hand.

Accurata definitione vtendum eſt in artibus, & cum doctis hominibus: in vulgus autem, & imperitorum ſenſus, deſcriptiones aptiores ſunt.

Heriettum eſt quædam præſtatio, vbi tenens liber vel ſervus in morte ſua dominum ſuum reſpicit de meliori auerio ſuo, vel de ſecundo meliori: quæ quidem præſtatio magis degratia quam de iure fit. Fleta: lib. 4. cap. 3. Eliſ. 58. Dyer.

Collegium eſt ſocietas plurium corporum inter ſe diſtantium: & dicitur collegium propriè, cum ſimul habitant, quoniam ſimul colliguntur, & collegium conſtituitur in eccleſia vel per priuilegium conceſſum a ſuperiori poſt fundatam eccleſiam, vel ſi a principio fuit ordinatum, quod eccleſia eſſet collegiata, vel ſi longo tempore vixerint collegialiter & ſunt in quaſi poſſeſſione collegij. Item eccleſia poteſt fieri collegiata cum conſenſu epiſcopi & patroni. 9. & 10. Fliſ. 13. Dyer.

If ſome of theſe examples by mée collected ſeeme rather good deſcriptions, then perfite definitions: thou that ſo thinkeſt, muſt thinke this alſo, that I could finde no better.

Therefore Si quid nouiſti rectius iſtis,
Candidus imperti: ſi non, his vtere mecum.

A definition is called of the Grecians, ὅρος, ὁρισμὸς, ὁριστικὸς λόγος. Which is a translated worde from boundes and limittes of grounde. For as they hedge in and include the ground: so doth a definition limite and circumscribe, or, as it were binde in the nature of that which is defined.

And that also is the naturall signification of this worde which the Latinistes vse, finire, or definire: from whence come finitio, and definitio: Which we now vse as an English worde. Finis is an end, finire, and definire, signifie to limite and end, or circumscribe one from an other, that so it may be knowne from other. The chiefe vse then of a definition is, to shew and make playne: yet an argument proouing may bee set both from the definition to the thing defined, and from this to that, negatiuely, and affirmatiuely, and so it is in descriptions.

[The difference:] This difference is sometimes set from the very internall forme and essentiall cause of the thing defined: which is best, but hard to bee found: and therfore, instead thereof, sometimes the ende is vsed, sometimes the proper adiunct, sometimes many adiunctes togither, sometimes the subiect.

One Relatiue doth define an other.

Canons.

If the definition bee, then the thing defined must bee, and contrarily: but if not that, then neyther this, and contrarily.

To whatsoeuer, the definition eyther may or may not bee applied, to the same also the thing defined eyther may, or may not bee attributed, and contrarily.

Whatsoeuer agreeth, or not agreeth with the definition, the same thing eyther will agree or not agree with the thing defined and contrarily.

In genere asciscendo satis erit proximum ponere, neq; altius a capite repetere. Nam qui proximum genus posuit, is etiam superiora omnia posuisse intelligitur. Quandoquidem (ait *Aristoteles* in topicis) in inferioribus ea quæ suprà sunt intelliguntur. *Hottoman.*

posuit

Maister Lambert; Iust. lib. 1, ca. 1. Iustices of the peace bee

be Iustices of record appoynted by the Quéene to bée iustices within certaine limites: for the conseruation of the peace, and for the execution of sundrie thinges comprehended in their commission, and in diuers lawes committed vnto them.

The 18. Chapter.

Of a Discription.

AN imperfect definition or description, is that whose difference is set elswhere then from the formall cause, and it is sometimes briefe, sometimes more largely amplified.

Thenot in February describeth the oake, thus,

There grew an aged tree on the greene,
A goodly oake sometime had it beene,
With armes full strong and largely displayde,
But of their leaues they were disarayde:
The body byg, and mightily pyght,
Throughly rooted and of wondrous hyght:
Whilom had bene the king of the field,
And muchel mast to the husband did yeeld,
And with his nuts larded many swyne,
But now the gray mosse marred his ryne.
His bared boughs were beate with stormes,
His top was balde and wasted with wormes,
His honour decayde, his braunches sere, &c.

In May Piers describeth the kid.

She set her yongling before her knee
That was both fresh and louely to see,
And full of fauour as Kid mought bee.
His vellet head began to shoot out,
And his wreathed hornes began to sprout.
The blossoms of lust to bud did begyn,
And spring foorth rankly vnder his chyn. &c.

Where afterwards followeth the description of the counterfayt pedler, the for. by adiuncts, effects, &c.

It was not long after she was gone,

But the falſe fox came to the doore anone,
Not as a Foxe, for then he had bee kend,
But as a poore pedler he did wend,
Bearing a truſſe of tryfles at his backe,
As bels, and babes, and glaſſes in his packe.
A biggen he had got about his brayne,
For in his headpeece he felt a ſore payne.
His hinder heele was wrapt in a clowte,
For with great colde he had got the gowte.
There at the doore he caſt me downe his packe,
And layd him downe, and groand, alacke, alacke.
Ah deare Lord, and ſweet ſaint Charitee,
That ſome good body would once pity me. &c.

Maiſter Plowden Fol. 273. a. Terminus, ſi ſit referre al temps, eſt le fine del ceo, come Weſton dit: et poet eſtre referre al lieu, come le ſeignior Dyer dit, come terminus loci; et adonques il eſt priſe come precinct ou lymite del vn lieu, come bounde eſt inter terres de diuers homes, et iſſint ad meſme le ſentence, come certeintie ad, ſoit il referre al tẽps, ou lieu: et terminus loci poot eſtre dit certeintie en lieu: terminus temporis eſt certeintie en temps.

Fol. 88. a. Et moy ſemble que pretenſed droyt ou title neſt ſorſque en vne caſe, et ceo eſt l'ou vn eſt en poſſeſſion de terres, ou tenements, et auter que eſt hors del poſſeſſion, clayme ceo ou ſue pur ceo; ceo eſt pretenſed droyt ou tytle.

Fol. 368. b. Deſcription de peace per Catlyn, et Fol. 195. a. Deſcription del fearme per Browne et Dyer &c. Ibidem, Le Comen ley, n'eſt que comen vſe.

Annotations.

AS breuity is commended in a perfect definition, ſo copious amplification is fitteſt for a deſcription: yet ſo as ſwelling ſuperfluitie bee alwayes auoyded.

Deſcriptio is called of the Græcians περιφρασις, τυπος, συναγωγη, ὑπογραφη. Some call it in Latine, Alluſio: it hath of diuers men, vppon ſundry occaſions diuers names. Sometimes ὑποτυπωσις, as it were a certeine delineation: if any perſõ be deſcribed, they call it Proſopographia, if a place,

Topographia,

Topographia, if a nation, Chorographia, if the earth Geographia, if the water, hydrographia, if the wind, Anemographia, if a tree, Dendographia, if the time, Chronographia, &c.

Aristoteles ait, neq; vnam duarū rerum, neq; vnius rei duas definitiones esse posse. ὅτε γὰρ ἕνα δυοῖν, ὅτε δύο τοῦ αὐτοῦ ὅρους δυνατὸν εἶναι. Nam cum vnius rei vna natura sit, quæ definitione explicatur, rectissimè à *Galeno* scriptum est, ἔνεσι πάμπολλοι ὁρισμοὶ ποιεῖν ἑνὸς πράγματος ἐν ταῖς φωναῖς μόνον, οὐκ ἐν τοῖς νοήμασι διαφέροντας. Licet plures vnius rei definitiones conficere vocibus tantum differentes, non rationibus.

Quod *Zeno* de Dialectica & Rhetorica dixit, illam pugno, hanc palmæ similem esse, idem de definitione dici & definito potest, idq; multò magis accomodatè. Re namq; sunt eadem, sed alterum euolutum, alterum inuolutum.

M. Lambard. Iust. lib. 1. cap. 16. Budæus in his Gréeke Commentaries is of the opinion, that the French worde Arrest, which with them signifieth a decrée or iudgement of a court, take beginning of the Gréeke ἀρεσὸν, that is Placitum, and, as wée might say, the pleasure or will of a Court. And albeit that it were not out of our way, to thinke that it is called Arrest, because it stayeth, or resteth the party, yet I beléeue rather that wée receiued the name from the Norman lawes, because wée vse it in the same sence with them: for commonly with vs, an Arrest is taken for the execution of the commaundement of some Court, or of some officer in Iustice. But howsoeuer the name began, An arrest is a certayne restraint of a mans person, depriuing it of his owne will and liberty, and binding it to become obedient to the will of the lawe; and it may bée called the beginning of imprisonment. The precepts and writs of the high courtes of lawe, doe vse to expresse it by two sundry wordes, as, Capias, and Attachias, which signifie to take or catch holde of a man. But this our precept noteth it by the wordes duci facias, cause him to bée conueyed &c. for that the officer hath after a sort, taken him before, in that hée commeth to him, and requireth him to goe to some iustice of the peace.

Ibidem. Suretie of the peace is an acknowledging of a bond to the prince, taken by a competent iudge of record for

the képing of the peace, and it is called suretie of the wo:d securitas, because the partie that was in feare, is thereby the mo:e quiet and secure.

Idem. Lib. 1. cap. 13. The Latine men vse, Recordor, when they will signifie, to kéepe in minde, o: to remember, in which sence the poet sayd:

Si ritè audita recordor.

And after the same sence also doth our lawe vse it: Fo: Reco:des bée nothing els but memo:ials o: monumentes of thinges done before Iudges that haue credite in that behalf.

One may affirme a thing, and another may deny it, but if a Reco:d once say the wo:d, no man shall be receaued to auerre o: speake against it. Fo: otherwise there would neuer bée any ende of controuersies.

Stamford. lib. 2. cap. 38. Sanctuary est vn lieu p:iuilege per le p:ince, ou soueraigne gouernour, pur le safegard de vie de home qui est offendour, et est foūdue sur la ley de mercy, et sur le grand reuerence, hono: et deuotion, que le p:ince ad al lieu, deins quel il granta tyel p:iuiledge, &c. An issue is sayd to bée status causæ, it is called Issue, of an issue in some vessell, whence onely the water is voyded &c.

Elenchs of all definitions.

First, if it want where it should bée: Then if it bée, but bée false: o: bée obscure, as that of the snayle, where the definition is mo:e obscure than the thing defined, and that in Pacuuius, Testudo est quadrupes tardigrada, agrestis, humilis, aspera, capite breui, ceruice anguina, aspectu truci, cuiscerata inanima, cum animali sono.

Arist. in 6. Top. compareth an obscure definitiō to the pictures of old bungling paynters, τὴν ἀρχαίων γραφέων; which had the names of the things paynted, put ouer the pictures, o: else they would neuer haue béene taken to bée the pictures of such things.

Homo est animal bipes, implume, quod erectum ingreditur, q:. Plato. And the next day after comes mée Diogenes with a cocke pluckt cleane without feathers, and th:owing him into Plato his schole, sayd, Ecce hominem *Platonicum*, lo héere is Platoes tall man, a two-foted creature, without feathers, going vp:ight.

Agayne

Agayne, if it eyther want, or haue too much.

In an vnperfect definition, the conuersion and reciprocation of it with the thing so defined is not precisely to be exacted: but in the other, it is necessarily required, the wante whereof is an infallible token of a sophisticall definition.

The 18. Chapter.

Of the argument borrowed.

SIth wee haue sufficiently discoursed of the nature of inherent arguments, it now remayneth to speake of the borrowed elsewhere, which is properly called a testimony or witnesse, and is only fit for proofe or confirmation. First, a testimony is either a famous sentence, as prouerbs, &c. or a law. A law is eyther naturall, or written.

Secondly a testimonie is either simply propounded, as an edict, &c. or written before.

Thirdly, a testimony is either with oath, or without oath. So much of the common affections of a testimonie: the specials follow.

A testimonie is either of God, or of man. Of God eyther immediately, or by prophetes, Aungels, &c. of this kinde bee diuinations, &c.

That of man, argueth not of it selfe, but by the vertue of some inherent argument: and in exquisite searching out of the truth of any thing, is but of small force, but in ciuill affayres it much preuayleth, when the testimony of any man is beleeued, by reason of his vertue, wisedome, &c. which indeed bee inherent arguments.

In May, the Fox would proue himselfe kynne to the Kid, because his grandsyre tolde him so.

And if that my Grandsyre tolde me be true,
Siker I am very sib to you.

Morrell in July.

Besides (as holy fathers sayne)
there is a hilly plaie,

Where *Titan* riseth from the mayne,
to ren his dayly race.

And Thomalyn in July vseth a prouerbe to confute Morrell, the commender of hils.

Ah, God shield man, that I should clymbe,
and learne to looke aloft.
This reede is rife, that oftentime
great clymbers fall vnsofte. And agayne,
To kerke the nar, from God more far,
hath beene an olde sayd saw,
And he that striues to touch a star,
oft stumbles at a straw.

Mans testimony is eyther of one man, or of many. That of one, is eyther obligation or confession. To obligation bee referred pledges or sureties. So in August the two shepeheards, Perigot and Willy, for want of better arguments to prowe their skill in singing, lay downe wagers, the one a cuppe, the other a spotted lambe. This is commonly called the fooles argument.

Willy. Then loe, *Perigot*, the pledge which I plight,
A mazer ywrought of the maple warre,
Wherein is enchased many a faire sight
Of Beares and Tygers, that maken fierce warre,
And ouer them spread a goodly wyld vyne,
Entrayled with a wanton yuy twyne.
Thereby is a lambe in the wolues iawes,
But see how fast renneth the shepheards swayne,
To saue the innocent from the beasts pawes,
And here with his sheepehooke hath him slayne.
Tell mee, such a cup hast thou euer seene?
Well mought it beseeme any haruest queene.

Perigot. Thereto will I pawne yonder spotted lam,
Of all my flocke there nis syke another,
For I brought him vp without the dam,
But *Colyn Clowt* raft me of his brother;
That he purchaste of mee in the playne field.
Sore against my will was I forst to yeelde.

I remember Diggon in September sweareth by his soule,

ſoule, to giue credite to his aſſertion, which I ſhould haue put before.

They ſay they com to heauen the nigher way,
But by my ſoule I dare vnderſay,
They neuer ſet foot in that ſame troade,
But balke the right way and ſtrayen abroade.

Maiſter Plowden Fol. 5. a. b. Et quant al diſtinction de Brytton parenter inheritance et purchaſe, ſir ieo n'ay grande regarde a ceo, car ſon lyeur conteigne mults errours.

Mes le lyeur de Lyttleton, que eſt ſolonque le primer edition, en que les nouels additions ſont omiſe, que eſt le verey et pluis ſure regiſter del fundaments et principles de noſtre ley, define, quod fœdum ſimplex idem eſt quod hæreditas legitima vel pura. Et iſſint il priſt cheſcun fée ſimple deſte inheritance. Et il dit que ceo parolle, inheritance, n'eſt ſolement entende lou home ad terre per diſcent, mes auri cheſcun fée ſimple, ou tayle, que home ad per ſon purchaſe, eſt inheritance tamen vis verbi hoc non vult.

Fol. 161. b. Et le cauillation oue les parols contrary al ſimple entent, come Tullius dit en ſon lyuer de officijs, eſt calumnia quædam & nimis callida, ſed malitioſa iuris interpretatio, ex quo illud, ſummum ius, ſumma iniuria. Come il miſt exemple de vn que auoyt priſe truce pur 130 iours oue ſon enemy, et en le nuyct il deſtruiſt et depopulate ſes poſſeſſions pur ceo, come il dit, le truce fuit pur iours, et nyent pur les nuyctes. Lequel Tullius accompt mere iniury et iniuſtice.

Fol. 321. b. Et ialemeins fuit dit per Gerrard que en le lyuer appelle expoſitiones vocabulorum, que fuit miſe en print 40 ans paſſe, il eſt declare que mynes de oze et argent en quecunq; terres, que ils ſont, afferont al roys del ceo realme. Iſſint Wray dit, que Hesket apprentice que fuit bien appriſe en le ley, en ſon lecture extant ſur leſtatute de charta foreſtę. affirmaſt, que ſi fueront mynes de oze et argent en terre del ſubiects deins le foreſt, que ceux afferont al roy. Iſſint il dit, que il auoyt vieu les leyes de ſ. Edward le Confeſſor, en queux fuit conteigne, quod Theſauri de terra pertinent domino regi. Et iſſint dit Barham del leys William conquerer,

queur il auoyt vieu, queur auoyent semblables parols.

The offering of triall and prowfe, belongeth to this place, as when a man seing his wordes not beleeued, biddeth them trie and then trust, as in Terence of the boy, fac periculum in literis, fac in musicis, fac in palestra: quæ liberum scire æquum est, solertem dabo: trie the boy in learning, try him in singing, trie him in wrestling: I will vndertake you shall finde him sufficient in whatsoeuer belongeth to a free borne boy.

Annotations.

ADrianus rectè rescripsit, se testibus, non testimonijs creditum, itaq; testium dignitas consideranda est: neq; enim quia affirmatum sit, aut negatum, ideo erit, aut non erit, *Arist.* de interpret: but because he that spake it, was so honest and wise a man, as that hee woulde not affirme an vntruth. Arist. 20. Rhet.

God is to be beleeued without exception, because God spake it: but men are so much either more or lesse credited, by how much their behauiour & learning is more or lesse esteemed. Therefore the Pythagorians were very folish in thinking their maister Pythagoras so wise, as that it were a sufficient argument, the thing were so, because Pythagoras said it was so, αὐτὸς ἔφα ipse dixit: ipse autem erat *Pythagoras*. Those men, saith Plato in Protagoras that vse the authoritie of others instead of argumentes of their owne, are like to sely soules of the country, when they kepe their wakes: quum enim propter insciti am nequeant inuicem propria voce suisq; sermonibus ipsi colloqui, mercede exhibita tibicines introducunt, vt aliena voce, id est tibiarum flatu, conuiuium transigant. Vbi autem boni, præclariq; & eruditi viri conueniunt, neq; tibicines, neq; saltatrices, neq; cantatrices vllas videas, sed voce propria, remotis ijs nugis iocisq, conuiuium celebrare & alternis interrogationibus responsionibusq; modestè disserere, etiamsi vinum abunde bibant. And in Gorgias hee saith truely, that in these borrowed testimonies there is no reason or perswasion, but rather violence and compulsion. Therefore, in Charmide, he biddeth vs consider,

ſider, not who ſpeaketh, but how true that is which is ſpoken. So ſayde Ariſtotle of his owne mayſter Plato, Amicus *Socrates*, amicus *Plato*, magis amica veritas. I loue Socrates and Plato well, but I like the truth better. So in 5. E. 4. 112. eſt dit, que precedents et courſe ne rule le ley, mes le ley rulera eux. Et pur ceo la fuit dit, que vn vtlagary fuit reuers, quia il fuit ad Com. Lancaſter ibidem tent. et ne dit apud Lancaſter, ou tiel lieu certeyne, a que le ibidem poet eſtre refer, nient obſtant que fueront 100 precedent de cel retorne. Donq; à fortiori, d'un precedent, qnia vna hirundo non facit ver. 1. & 2. M. 14. Dyer.

Canons.

Heere, they are vſually wont to ſay, Vnicuiq; in ſua arte perito, credendum eſt. Euery man is to bee beleeued in that art which hee profeſſeth, and wherein hee hath ſkill and experience.

The Rhetoricians diſpute with, and againſt ertort teſtimonies, as preſent occaſion is euer offered vnto them.

In our law, twelue bee choſen and ſworne; their verdict is quaſi verèdictum. The ſuſpected men may bee ouſted by challenge. Heerevpon wee haue challenge peremptory, challenge per cauſe, &c.

Maiſter Lambard Iuſt. But eſpecially there ought to appeare ſuch Iurors, as be returned by the ſhiriffe, and warned by his bayliffe, whether it bee for enquiry or tryall: and in this behalfe, both the commiſſion, the common forme of the precept, and the Law it ſelfe (11. H. 4. cap. 9.) willeth that they ſhould bee probi & legales homines. For if any of them be diſcredited in Law, as by attainder in conſpiracy, attaint, Decies tantùm, ſubornation of periury, or ſuch like, they bee not probi, and their preſentment is voyde by it, vnleſſe there bee 12. beſides them, that are not ſo blemiſhed. Agayne, if they bee outlawed, abiured, condemned in a Præmunire, or attaynted of treaſon, felony, or ſuch like, then bee they not legales, and their preſentment is meerely voyde alſo, as it may bee gathered vpon the caſe. 11. H. 4. 41.

And women, infants vnder fourteene yeeres of age, aliens, and ſuch as bee within orders of the miniſtery of the clergy,

cannot bée impannelled amongst others. Generally also, these Iurors ought either to bée inhabiting within the shire, or els to haue landes there: for, the commission willeth, that they should be such per quos rei veritas melius sciri poterit: which must nédes bée vnderstoode of such, as haue cause to know the countrey: and the precept is vsually according to the same forme. But especially in the countie Palatine of Lancaster, each Iurour ought to haue to the yearely value of fiue poundes by order of the statute. 33. H. 6. ca. 2. Now by 27. Eliz. euery Iuror must haue iiij. pound by the yeare.

But these men bée not truely Iurors, till they bée sworne, as their name pretendeth, and otherwise their presentment is vtterly voyde.

Each Jury of Enquiry ought to conteine twelue in number at the least, & if there bée 18. or moe, it shal not bée amisse. Yea the common order with vs is, to haue them of an odde number, as 17. 19. or 21. to the ende (as it séemeth) that if they shoulde dissent in opinion somewhat equallie, yet there should bée alwayes one, to wey downe the side, and cast the ballance: but if 12. of them doe agrée, the gaynesaying of the residue cannot hinder the presentment. Les Iurors tryeront le fayt, et nemy le ley, quia sont ignorants: mes les Judges le ley, itaq; trauers est prise sur le matter in fayt et non sur le matter en ley. Vide Plowden. Fol. 231.

Fortescue, Lord Chauncellor, in Henry the firt his time, preferreth this order of triall before that vsed in the Ciuill Law. His comparison is to this effect.

Si coram Iudice contendentes, ad litis perueniant contestationem super materia facti (quam legis Angliæ periti exitum placiti appellant) exitus huiusmodi veritas per leges ciuiles, per testium depositionem probari debet, in qua duo testes idonei sufficiunt. Sed per leges Angliæ veritas illa non nisi duodecim hominum de vicineto vbi factum huiusmodi supponitur sacramento, Iudici constare poterit: and afterward.

Per leges ciuiles pars quæ in litis contestatione affirmatiuam dicit, testes producere debet, quos ipsemet ad libitum suum nominabit. Negatiua autem probari non potest, videlicet directè: licet posit per obliquum. Ex illis quippè

creditur

creditur esse potentiæ, minoris quoq; industriæ, qui de omnibus quos noscit hominibus, duos reperire nequit ita conscientia & veritate vacuos, vt timore, amore, vel commodo, omni velint contraire veritati. Hos potest tunc ipse in testimonium producere in causa sua; & si contra eos pars altera dicere velit, vel contra eorum dicta, non semper continget eos, eorum quoq; mores aut facta apud contradicere volentem agnosci, vt ex eorum fœditate & vitijs testes illi possint reprobari. Et dum eorum dicta affirmatiuam contineant, non facilè poterunt illa per circumstantias aut obliqua alia improbari. Quis tunc poterit suorum aut suijpsius sub lege tali viuere securus, dum cuilibet sibi inimicari volenti lex tale præstat subsidium? Et qui iniqui duo tam incauti sunt, quod facti de quo ipsi examinabuntur in iudicio, non, antequam in testes producantur, occultè fingant imaginem & figuram; componant quoq; eidem omnes circumstantias, quales sibi affuissent, si illud in veritate constitisset? Prudentiores namq;, vt dicit Dominus, sunt filij huius mundi, quam filij lucis. Sic *Iesabel* sceleratissima, testes duos filios *Belial*, contra *Nabot* in iudicio produxit, quo ipse vitam perdidit; & *Achab* rex, eius vineam possidebat. Sic duorum senum etiam Iudicum testimonio, mortua fuisset pro adulterio vxor castissima *Susanna*, si non eam miraculosè liberasset Dominus inexcogitabili prudentia, quam à natura non habuit puer iunior nondum ætate prouectus. Et si ipsos depositione sua varia conuicerat puer ille esse falsarios, quis nisi solùm Dominus nouisse poterat eos in dictis suis taliter variaturos? dum non de arboris natura sub qua imputatum facinus fiebat, lex aliqua eos arctabat reminiscì, quia testes sceleris cuiusq; considerare non putantur omnia vmbracula & cætera vicina illi facto, quæ ad aggrauationem vel detectionem criminis illius minimè operantur. Sed dum de arborum speciebus, Iudices illi nequam vltrò deponentes variabant, eorum dicta ipsos veritatis fuisse prævaricatores demonstrabant, quò & talionis pœnam meritò incurrerunt. **And so forth in the example of one** Iohn Fringe, **that at his death protested hée was not guilty of the fault, whereof two men accused him.** Et alibi. Non igitur contenta est lex Franciæ, in criminalibus vbi mors imminet, reum testibus conuincere,

nc

ne falsidicorum testimonio sanguis innocens cõdemnetur. Sed mauult lex illa reos tales torturis cruciari, quousq; ipsi eorum reatum confiteantur, quam testium depositione, qui sæpè passionibus iniquis, & quandóq; subornatione malorum ad periuria stimulantur. Quali cautione & astutia, criminosi etiam & de criminibus suspecti tot torturarum in regno illo generibus affliguntur, quod fastidit calamus ea literis designare. Quidam verò in equuleis extenduntur, quo eorum rumpuntur nerui, & venæ in sanguinis fluenta prorumpunt. Quorundam verò dinersorum ponderum pendulis dissoluuntur compagines & iuncturæ: & quorundam gaggantur ora, vsq; dum per illa tot aquarum infundantur fluenta, vt ipsorum venter montis tumescat more, quo tunc venter ille fossorio vel simili percussus instrumento, per os aquam illam euomat ad instar balenæ quæ cum halecibus & alijs piscículis mare absorbuit, aquam despumat, ad altitudinem arboris pini. Piget, proh pudor, iam penna exquisitorum ad hæc cruciatuum enarrare immania. Nam eorum variatus numerus vix notari poterit magna in membrana. Leges etiam ipsæ ciuiles deficiente testium copia, in criminalibus, veritatem consimilibus extorquent tormentis, qualiter & faciunt etiam quamplurima regna. Sed quis tam duri animi est, qui semel ab atroci tanto torculari laxatus, non potius innocens ille omnia fateretur scelerum genera, quam acerbitatem sic experti iterum subire tormenti; & non semel mori mallet, dum mors sit vltimum terribilium, quam totiens occidi, & totidem gehennales furias morte amariores sustinere? **Then followeth an example of one that by torture confessed thinges vntrue &c.** Taliter, proh dolor, & quamplures alij miseri faciunt, non veritatis causa, sed solum vrgentibus torturis artati. Quid tunc certitudinis resultat ex confessionibus taliter compressorum?

Cæterum, si innocens aliquis non immemor salutis æternæ in huiusmodi *Babylonis* fornace, cum tribus pueris benedicat Dominum, nec mentiri velit in perniciem animi sui, quo iudex eum pronunciat innocentem, nonne eodem iudicio iudex ille, seipsum reum iudicat omnis scelitiæ & pœnarum quibus innocentem affixit? ô quàm crudelis est lex talis, quæ dum innocentem damnare nequit, iudicem ipsum condemnat?

Et

Et alibi. Præterea si ex contractibus illatisue iniurijs, vel hæreditatis titulo, ius accreuerit homini, agendi in iudicio, si testes non fuerint, vel si qui fuerint, moriantur, succumbet ipse agens in causa sua, nisi ius suum probare valeat iueuitabilibus coniecturis, quod facere crebrò non contingit. Quare de dominijs & alijs possessionibus iure ciuili regulatis similiter & in omnibus actionibus cadentibus sub eodem iure, actiones agentium pro defectu testium quampluries suffocantur, ita quod earum vix pars media optatum finem sortiatur, &c.

The order of our common law followeth.

Regnum Angliæ per comitatus, vt regnum Franciæ per Balliuatus distinguitur, ita vt non sit locus in Anglia, qui non sit infra corpus alicuius comitatus. Comitatus quoq; diuiduntur in Hundreda, quæ alicubi Wapentakia nuncupantur. Hundreda verò diuiduntur per villas, sub quarum appellatione continentur & burgi atq; ciuitates. Villarum etenim metæ non muris, ædificijs aut stratis terminantur, sed agrorum ambitibus, territorijs magnis, hamletis quibusdam, & multis alijs, sicut aquarum, boscorum, & vastorum terminis, quæ iam non expedit nominibus designare, quia vix in Anglia est locus aliquis qui non infrà villarum ambitus contineatur, licèt priuilegiati loci quidam infrà villas, de eisdem villis pars esse non censentur. Præterea in quolibet comitatu est officiarius quidam vnus regis vicecomes appellatus, qui inter cætera sui officij ministeria, omnia mandata & iudicia curiarum regis in comitatu suo exequenda exequitur. Cuius officium annale est, quo ei post annum in eodem ministrare non licet, nec duobus tunc sequentibus annis ad idem officium reassumetur. Officiarius iste sic eligitur. Quolibet anno in crastino animarum, conueniunt in Scaccario regis omnes consiliarij eius, tam domini spirituales & temporales, quam alij omnes iusticiarii, omnes barones de Scaccario, clericus rotulorũ, & quidam alij officiarij, vbi hi omnes cõmuni assensu nominant de quolibet comitatu tres milites vel armigeros, quos inter cæteros eiusdem comitatus, ipsi opinantur melioris esse dispositionis & famæ, & ad officium vicecomitis comitatus illius melius dispositos: ex quibus rex vnum tantum eliget, quem per literas suas patentes constituet vicecomitem comitatus de quo eli-

gitur, pro anno tunc sequente. Sed ipse antequam literas illas recipiat, iurabit super sancta Dei euangelia, inter articulos alios quod bene, fideliter & indifferenter exercebit & faciet officium suum toto anno illo, neq; aliquid accipiet colore aut causa officij sui ab aliquo alio quam à rege. His iam sic prę-suppositis, ad eorum quæ quærimus, indaginem procedamus.

Quotiescunq; contendentes in curijs regis Angliæ ad exitum placiti super materia facti deuenerint, concitò, Iustitiarij per breue regis scribunt vicecomiti comitatus in quo factum illud fieri supponitur, quod ipse venire faciat coram eisdem Iustitiarijs ad certum diem per eos limitatum, duodecim probos & legales homines, de vicineto, vbi illud factum supponitur, qui neutrum partium sic placitantium vlla affinitate attingunt, ad recognoscendum super eorum sacramenta, si factum illud factum fuerit, sicut vna earundem partium dicit, vel non, sicut altera pars negat. Quo adueniente die, vicecomes returnabit breue prędictum coram eisdem Iustitiarijs vna cum panello nominum eorum quos ipse ad hoc summoniuit, quos, si venerint, vtraq; pars recusare poterit, dicendo quod vicecomes panellum illud fauorabiliter fecit pro parte altera, viz. de personis nimis indifferentibus. Quæ exceptio, si comperta fuerit vera per sacramentum duorũ hominum de eodem panello ad hoc per Iustitiarios electorum, mox panellum illud quassabitur, & Iustitiarij tunc scribẽt coronatoribus eiusdem comitatus, quod ipsi nouum faciant panellum. Quod cùm fecerint, si & illud consimiliter repertum fuerit viciatũ, etiam & illud quassabitur: & tunc iustitiarij eligent duos de clericis curiæ illius, vel alios de eodem comitatu qui in præsentia curiæ per eorum sacramenta facient indifferens panellum, quod deinde per nullam partiũ illarum calumniabitur. Sed cùm venerint sic impanellati in curiam, quelibet partium excipere potest contra personam cuiuscunq; eorũ, ficut & potest in omni casu & omni tempore, quo aliquis qualitercunq; impanellatus comparuerit in curia super veritate exitus huiusmodi iuraturus: dicendo, quod impanellatus ille est consanguineus vel affinis parti alteri, vel amicitia quacunq; tali sibi coniunctus, quod indifferens ipse non est ostendere inter eos veritatẽ: qualium exceptionum tot sunt genera & species, quod non

licet

licet eas breui explicare sermone : quarum si aliqua reperta fuerit vera, non tunc iurabitur ille contra quem exceptio illa proponitur, sed cancellabitur nomen eius in panello. Sic quoque fiet de omnibus nominibus impanellatorum, quousq; duodecim eorũ iurentur ita indifferentes, quod versus eos neutra partium habeat aliquam materiam calumniæ. Horum autem duodecim ad minus quatuor erunt de hundredo vbi villa in qua factũ de quo contenditur, fieri supponitur, sita est. Et quilibet iuratorũ huiusmodi habebit terras vel reditus pro termino vitæ suæ ad minùs, ad valorem annuũ 40. s. (now 4. li. by stat. 27. Eli.) Et hic ordo obseruatur in omnibus actionibus & causis criminalibus, realibus & personalibus, præterquam vbi damna vel debitum in personalibus non excedunt 40. marcas monetæ anglicanę, quia tunc non requiritur, quod iuratores in actionibus huiusmodi tantùm expendere possint. Habebunt tamen terram vel reditũ ad valorem competentem iuxta discretionẽ iustitiariorum, alioquin ipsi minime iurabũtur, ne per inediam & paupertatem iuratores huiusmodi de facili valeant corrumpi & subornari.

Et si per tales exceptiones, tot iuratorum nomina in panello cancellentur, quod non remaneat numerus sufficiens ad faciendam inde iuratam, tunc mandabitur vicecomiti, per breue regis, quod ipse apponat plures iuratores : quod & sæpius fieri potest, ita quod inquisitio veritatis super exitu placiti, non remanebit ob defectum iuratorum &c.

Iuratis demùm in forma prædicta duodecim probis & legalibus hominibus habentibus vltra mobilia sua, possessiones, vt prædicitur sufficientes, vnde eorũ statum ipsi continere poterint, & nulli partium suspectis nec inuisis, sed ijsdem vicinis, legetur in Anglico coram eis per curiam totum recordum & processus placiti quod pendet inter partes : ac dilucidè exponetur eis exitus placiti de cuius veritate iurati illi curiam certificabunt. Quibus peractis, vtráque partium per se vel consiliarios suos in præsentia curiæ referet & manifestabit eisdem iuratis, omnes & singulas materias & euidentias quibus eos docere se posse credit veritatem exitus taliter placitati. Et tunc adducere potest vtraq; pars corã eisdem iustitiarijs & iuratis omnes & singulos testes quos pro parte sua

ipsa producere velit, qui super sancta Dei euangelia per iusticiaros onerati, testificabuntur omnia quæ cognoscunt probantia veritatem facti de quo partes contendunt. Et si necessitas exegerit, diuidentur testes huiusmodi, donec ipsi deposuerint quicquid velint, ita quod dictum vnius non docebit, aut concitabit eorum alium ad consimiliter testificandum. Quibus consummatis, postquàm iuratores illi deindè ad eorum libitum super veritate exitus huiusmodi, deliberatione quantam ipsi optabunt, colloquium habuerint, in custodia ministrorum curiæ in loco eis ad hoc assignato, ne interim eos aliqui subornare valeant, reuenient illi in curiam, & certificabunt iustitiarios super veritate exitus sic iuncti, in præsentia partium, si interesse velint, & maximè petentis. Quorum iuratorum dictum per leges Angliæ, Veredictum nuncupatur; & tunc secundũ huiusmodi veredicti qualitatem, iustitiarij reddent & formabunt iudicium suum. Tamen, si pars altera, contra quam veredictum huiusmodi prolatum est, conqueratur se per illud iniustè esse grauatum, prosequi tunc potest pars illa versus iuratores illos, & versus partem quæ obtinuit, breue de attincta. Virtute cuius, si compertum fuerit per sacramentum viginti quatuor hominum in forma prænotata retornatorum, qui multò maiora habebunt patrimonia quàm iuratores primi, quod ijdem iuratores primi falsum fecerunt sacramentum, corpora eorundem primorum iuratorum prisonæ regis committentur, bona eorum confiscabuntur, ac omnes possessiones eorundem in manus regis capientur; domus quoq; eorum & ædificia prosternentur, bosci succidentur, & prata arabuntur, ipsi etiam iuratores primi extunc infames erunt, nec alicubi recipientur in testimonium veritatis, & pars quæ succubuit in priori placito, restituetur ad omnia quæ ipse perdidit occasione eius. Quis tunc, etsi immemor salutis animæ suæ fuerit, non formidine tantæ pœnæ, & verecundia tantæ infamiæ, veritatem non diceret sic iuratus? Et si vnus forsan tantus sui honoris prodigus esse non pepercerit, aliqui tamen iuratorum tantorum famam suam non negligent, neq; bona & possessiones suas taliter distrahi patiẽtur propria culpa sua. Nonne iã hic ordo reuelandi veritatem potior & efficacior est, quàm est processus qualem pariunt ciuiles leges? Non hîc pereunt cauiæ aut ius alicuius

per

per mortem, aut ob defectum teſtium, non hîc producuntur teſtes ignoti, conductitij, pauperes, vagi, inconſtantes, aut quorum conditiones vel malitiæ ignorantur. Vicini ſunt teſtes iſti de propriis viuere potentes, famæ integræ, & opinionis illeſæ, non per partem in curiam ducti, ſed per officiarium nobilem & indifferentem electi, & coram iudice venire compulſi. Iſti omnia ſciunt quæ teſtes deponere norunt, & iſti teſtium productorum agnoſcunt conſtantias inconſtantiasq; & famam. Quid vltra? Verè nihil eſt quod veritatem dubij de quo contendi poterit, detegere valebit, quod iuratoribus talibus latere quomodolibet poteſt aut ignorari, dummodo poſſibile ſit, illud venire poſſe in cognitionem humanam.

And then after, de cauſis criminalibus. Si reus quiſpiam de felonia aut proditione in Anglia rettatus, crimen ſuum coram iudicibus dedicat, mox vicecomes comitatus vbi facinus illud commiſſum eſt, venire faciet coram eiſdem iudicibus viginti quatuor probos & legales homines de vicineto villæ vbi illud factum eſt, qui rettato illi nulla affinitate attingunt, & quorum quilibet centum ſolidatus habeat terræ & reditus, ad certificandum iudices illos ſuper criminis illius veritate. Quibus comparentibus, rettatus ille eos calumniare poteſt eadem forma qua in actionibus realibus fieri debere ſuperius deſcribitur. Et inſuper reus ipſe, in fauorem vitæ ſuæ calumniare potuit olim trigintaquinq; homines quos ipſe maximè formidat, qui ad eius calumniam cancellabuntur in panello, aut ſignis talibus notabuntur, quod (vt verbis legis vtar) illi ſuper eum non tranſibunt, licet ipſe nullam cauſam aſsignare ſciat exceptionis ſeu calumniæ ſuę. Quis tunc mori poſsit iniquè in Anglia pro crimine, cùm tot inuamina habere ille poterit ob fauorem vitę ſuę? Et non niſi vicini eius, probi & fideles homines, verſus quos ipſe nullam habet materiam exceptionis eum condemnare poterunt? Mallem reuera viginti facinoroſos mortem pietate euadere, quàm iuſtum vnum iniuſtè condemnari.

Nec tamen reum quempiam ſub hac forma, reatus ſui pœnam euadere poſſe ſuſpicandum eſt, dum eius vita & mores timori deinceps erunt eis qui eum ſic purgarunt à crimine.

In hoc equidem proceſſu nihil eſt crudele, nihil inhuma-

num, nec lædi poterit innocens in corpore aut membris suis, quarè nec formidabit ille calumniam inimicorum eius, quia non torquebitur iste ad arbitrium ipsorum. Igitur sub hac lege viuere, quietum & securum est &c.

Somuch I thought good to borrowe of Fortescue, concerning witnesses and testimonies, tortures, rackinges, and suche other grieuous & extort confessions vsed, as he saith in France and elswhere. The rudenesse of the time wherein he wrate, must excuse the manner of his writing, which is not ouer elegant.

Reade the statutes made, 17. E. 2. and there se the othe of a villeine doing fealtie vnto his Lord: from whence Littleton, hath set the prescript formes of oathes to be vsed of freemen in doing homage, and fealtie to their Lords, partition, 91. 85. 86. 87. 88. 89.

Of the writing, ensealing, and deliuering of deedes and euidences, Parkins hath a special tractate cap. 20. Where the misdating, rasing, interlyning, adding new letters vpon the old, hāging in the smoke, breaking of ȳ seale, vtter quashing of the print, heating of the ware and fastning therof to the Label from whence it was once seuered, with other such imperfections, make the deede suspicious.

Of the auncient manner of sealing with crosses and such markes, of Edward the thirds fashion in biting the ware with his teth, reade the exposition of our Lawtearmes.

Elenchs.

A false testimonie is described by the wickednesse, and malicious nature of him that gaue witnesse. The worlde is full of false forsworne knaues, desperate careawaies, and rascallike shwashbucklers, that borrow citizens gownes to sell hired oathes, to the vtter subuersion of Iustice, and vndoing of wel-meaning neighbours. So that no one thing is more common then that damnable speech, Iuraui lingua, mentem iniuratam gero, and Iura, periura, secretum prodere noli.

The 20. Chapter.

Of compared argumentes.

HItherto then of the first diuision of argumentes. Now secondly, an argument is eyther simple, or compared. Simple is that which is simply considered without any respect of comparison. Compared is that which is compared with another. Compared arguments are sometimes briefly expressed by plaine and euident signes, and sometimes largely distinguished by two partes, whereof the first is called the proposition, which propoundeth and putteth downe the first part of the comparison in the first place: the second is the Reddition, which addeth the second part, and applyeth it vnto the first.

Comparison is eyther in qualitie, or quantitie. Qualitie is that whereby thinges compared are called eyther like, or vnlike.

Like are those which haue the selfe same qualitie: this likenesse is called Proportion, and the thinges like proportionable. The signes be these, like as, euen as, so, and a deniall of the vnlike.

Diggon in September.

They looken big, as Buls that bene bate,
And bearen the cragge so stiffe and so state,
As Cock on his dunghill crowing cranck. Agayne
Well away the while I was so fond,
To leaue the good that I had in hond.
In hope of better that was vncouth,
So lost the dog the flesh in his mouth:

And below.

Thus chatten the people in their steds,
Ylike as a monster of many heads:

The gate of her kidby in May:

For euen so thy father his head vphelde,
And so his hawtie hornes did he welde.

Piers in May.

Sike mens folly I cannot compare,

Better

Better then to the apes fooliſh care,
That is ſo enamoured of her yong one,
And yet, God wot, ſuch cauſe hath ſhee none:
That with her hard hold and ſtraite embracing,
Shee ſtoppeth the breath of her yongling.

Sometimes there bée no notes at all, as,
Thenot in Februarie.

For youth is a buble blowne vp with breath,
Whoſe wit is weakeneſſe, whoſe wage is death,
Whoſe way is wildernеſſe, whoſe Inne penance,
And ſtoope-gallant age the hoſte of greeuance.

The parts of a ſimilitude are ſometimes moze largely put downe, and that by thzée partes and dægrées of compariſon, oz els by foure. The firſt is called a continued ſimilitude, the ſeconde a diſtinct and ſeuered ſimilitude: Foz the firſt, Cuddy in Februarie hath this:

The keene could blowes through my beaten hide,
All as I were through the body gryde:
My ragged rontes all ſhiuer and ſhake,
As doone high towers in an earthquake.

Where one part muſt be twiſe repeated to couple and continue the ſimilitude, thus, As towers ſhake in an earthquake, ſo my ronts ſhake, where this woꝛd, ſhake, is twiſe mentioned.

Colyn in Januarie vſeth a diſtinct ſimilitude with foure tearmes.

You naked trees, whoſe ſhady leaues are loſt,
Wherein the byrds were woont to build their bowre
And now are cloathed with moſſe and hoarie froſt,
Inſtead of bloſmes wherewith your buds did flowre:
I ſee your teares that from your bowes do rayne,
Whoſe drops in dreary Iſicles remayne.
Alſo my luſtfull leafe is drie and ſeare,
My timely buds with wailing all are waſted.
The bloſſome which my branch of youth did beare,
With breathed ſighes is blowne away and blaſted.
And from myne eyes the drizling teares diſcend
As on your boughes the Iſicles depend.

Fayned

Fayned ſimilitudes haue like force with others: and here in theſe ſimilitudes thus largely put downe, Eſopicall fables haue very good grace. So Menenius Agrippa vſing the tale of the rebellion betweene the belly and other partes of the body: and comparing that with the rebellion betweene the common people and ſenators of Rome, perſwaded thoſe that were fled to the holie hill, quicklie to returne home to Rome, and become conformable citizens.

Maiſter Plowden. Fol. 31. b. Semblable reaſon ſemblable ley.

Fol. 369. b. Et Catlyne reſemble le fine per ceo act, al Ianus, quel, il dit, fuit Noe: mes les Romaines ſur occaſion luy noſme Ianus, et vſe de picter luy oue deux faces, vn aſpectant arere, ſ. backward, en reſpect que il auoit view le former monde que fuit peri per le inundation, et anter, aſpectant auant. ſ. forward, in reſpect que il comence nouel monde commenceant de le inundation et procedant dillonques en euant. Et pur ceo ils luy appelle Ianus Bifrons et auri portant clyffe en ſa mayne, ſignifiant per ceo clyffe ſon poyar per ſon generatiõ de renouater le nouel monde. Iſſint ceo act fait vn inundation, per quel tout former droit deuant le fine ſerra merge per non claime. car non claime eſt le fiud et le fine produce nouel generation, quel eſt le nouel droyt. Car le fine fait nouel droit, et eſt le commencement de nouel monde, quel procede del temps del fine en auant.

Fol. 272. Et il dit que il y ad diuerſitie enter leaſe conditional, et condition, d'auer leaſe. Car leaſe conditional eſt bone tanques le condition eſt enfreint, et la le leaſe va deuant, et le condition vyent apres. Mes en condition d'auer leaſe, le condition va deuant, et le leaſe vient apres, et le leaſe ne ſerra vnques aiudge deſtre leaſe, tanque le condition ſoit primes performe. Come ſi ieo graunt a vous que ſi vous faces tiel choſe, vous aueres leaſe en tiel mon terre, la, il dit, le condition precede le leaſe, come le nedle prierede le file, et ſicome le nedle tray le file puis luy, iſſint fait le condition le leaſe la.

Fol. 465. a. De ceſt iudgement, et le cauſe poyes veyer, (lecteur) que les parolles del ley, ne ſont le ley, mes le inter-

nall ſence. Et noſtre ley, come touts autres leyes, ad deux parts, ceſt aſſauoir, carnem & animam. Le letter de le ley eſt le chaire de le ley, et le ſence et reaſon del ley, eſt le alme de le ley, quia ratio legis eſt anima legis. Et le ley poet eſtre reſemble a vn noir, que ad vn teſt, et vn cerneau deins. Le letter repreſent le teſt, et le ſence le cerneau; et ſicome ne ſerres le meliour pur le noir ſi arreſtes ſur le teſt, nyent pluis ſerres pur le ley, ſi arreſtes ſur le letter. Et ſicome le fruyt et profite eſt en le cerneau, et nient en le teſt, iſſint le fruyte et profite de ley eſt en le ſence pluis toſt que en le letter, et ſouent foits quant vous ſaches le letter, vous ne ſaches le ſence. Car aſcun foits le ſence ne ſerra ey large come le letter eſt, et aſcun foits le ſence ſerra pluis large que le letter: et equitie, que en Latin eſt appelle, æquitas, amplifie, ou demenuiſt le letter, come ſa direction veult.

Fol. 486. a. Car ſoyt le atteinder per ſtatute, ou per commen ley, le forfeyture al roy enſue, come le vmbre enſue le corps, come Dyer le terme.

Fol. 529. b. Et il dit, ſicome femme que ad recouer dower, ne poet entrer, mes doit auer ſeiſin deliuer a luy per le viſcount. Et ſicome vn copyholder, a que vn copyhold tenement eſt diſcende, doit eſtre admitte per le ſeignior auant que il auera ſeiſin in iudgement del ley. Iſſint ceſty que eſt admitt, ou inſtitute al prebend, parſonage, ou vicarage, ne poet auer ſeiſin, ne eſt plein incumbent, tanque le archdeacon ad luy induct, ou, ſi ſoit prebendary, deuant que le Deane et le chapter del Cathedrall egliſe lou ſa prebend eſt, ont luy enſtalle.

Annotations.

FAyned ſimilitudes bée very populare and plauſible, and haue in them this one good thing, that where as it is ſomtimes hard to finde out true ſimilitudes, it is an eaſie matter, to fayne ſome odde parable. But like examples of things done in déede bée beſt. Ariſto. 2. Rhet. hath that of the bridled horſſe, and hungry flies.

Bracton: deſcendit ius quaſi ponderoſum quid, cadens deorſum recta linea, vel tranſuerſali, & nunquam reaſcendit ea via qua deſcendit poſt mortem antecceſſorum: à latere tamen aſcendit

ascendit alicui propter defectum hæredũ inferius proueniẽtium. Maister Lambard Iust. lib. 2. cap. 1. As a man that hath receiued hurt in his body by a stroake whereof hée bléedeth freshly, will be content for the present to admit the help of any leeche or surgeon comming next to hand, for the stanching of the bloud and binding vp of the wounde, and yet would more gladly haue vsed the conference of diuers expert surgeons for doing the same if the danger of the hurt woulde haue graunted the time, that will be lost in calling them together: so also, the common counsaile of this realme, finding that the body thereof may bée deeeply wounded in some one member, and perceiuing that some euils must bée resisted at the very first (least otherwise they grow past helpe and ware incurable) hath many times thought it good to commit to one or to a few Iustices of the peace (for that they bée ready and at hand) the stopping of the bloud, as it were, and first dressing of the wound by repressing of force and other outrages that do sodainly arise: and hath yet neuertheless, when as the time and matter will permit, politikely established an assemblie and conference of all the Iustices, at certayne times in a full court and open session.

When it appeareth that the thinges which we compare togither, be like, because that thing wherein they be compared, may be applied to them both; then wée loke whether it be applied to them in equall proportion and quantitie, or vnequall: if in equall, then they bée pares, equall: if in vnequall, then impares, of the which the one is the more, the other is the lesse, which is the comparison of quantitie: therfore I haue put qualitie before quantitie. For it were absurd to aske wheather Higs of Balkot, or Shepheard of Tugford, were the falser knaue, vnlesse it were first graunted that they were both false knaues.

Affectio similium inter se, (vt cæterorum argumentorum) est ἀνάπαλιν ἢ ἐναλλαξ: Inuerse & alterne. Inuerse quando inuertitur ordo propositionis & redditionis tantum, aut etiam terminorum. Itaq; si quædam similia fuerint, inuersè similia erunt, vt aurum ad ignem, sic fides ad periculum, ergo vt fides ad periculum, sic aurum ad ignem, Item ergò, vt periculum,

ad fidem, sic ignis ad aurum. Alternè, quando similitudinis antecedens antecedenti, & consequens consequenti comparatur: si quædam similia fuerint, alternè similia erunt, vt aurum ad ignem, sic fides ad periculum, ergò, vt aurum ad fidem, sic ignis ad periculum.

I haue made a second generall diuision of argumentes, into simple, and compared, as perceauing the nature of comparison to bée incident to euery argument that is not simple.

Canons.

One like argueth an other: as this is in respect of that, so the other in respect of the other: As this is in that, so an other in another.

Of likes there is like reason. Lykes agree to like.

Vbi eadem ratio, ibi idem ius. 19. H. 6. 18. b. Newton & Littleton, que sont en semblable reason, sont en semblable ley. pag. 301.

Vide 9. H. 6. 24. b. Bab. Home poet deuiser que sa terre serra vendue per les executors, et iceluy home auera franck-tenement de celuy que ne auera riens, come home auera fire dun fiynte, et vncore null fire est in le fiynte. Sic in 19. H. 6. 24. Mark: Executors poyent doner chose que ils n'auoyent, come vn whetstone, que done sharpenes a vn cuttell, et vncore null est en luy.

Si cui simpliciter via per fundum cuiuspiam concedatur vel relinquatur, quà primum viam direxerit, ea demum ire, agere debet, nec amplius mutandæ eius potestatem habet, argumento riui, quem primò qualibet ducere licet, postea-quam ductus est, transferre non licet.

Elenchs.

As a new coate is better than an old: so new friendship, and new wine; these bée not like.

The 21. Chapter.

Of the vnlike.

THe vnlike is that whose qualitie is vnlike. The notes are these, vnlike, differing, otherwise, and the deniall of the like.

Thomalin in July.

But

But nothing such thilke shepheard was,
whome Ida hill did beare:
That left his flocke to fetch a lasse,
whose loue hee bought too deare.

The notes bée oftentimes omitted, and the dissimilitude more fully enlarged.

Colyn in June.

O happy *Hobbinoll*, I blesse thy state,
That Paradise hast found which *Adam* lost,
Here wander may thy flocke early or late:
Without dread of woolues to beene ytost,
Thy louely layes here mayst thou freely bosse:
But I vnhappy man whome cruell fate
And angry Gods pursue from coaste to coaste,
Can no where finde to shrowde my luckelesse pate.

Maister Plowden Fol. 76. b. Et quant a ceo que est dit, que en le briefe de droyt, quando capitalis dominus remisit curiam, que l'assent del seigniour est primes conus, et illint en le Recordare, le clause est, si causa sit vera, aliter non: sir, ceo est bon reason, et nyent semblable a nostre case. Car la, est parcell del inheritance del seigniour d'auer le plée tenus en son court, et d'auer les profites et casualties deignant per ceo, lequel n'est reason a toller de luy sans cause. Mes en nostre case le viscount n'est forsques minister al roy per luy appoynt, et n'ad ascun profite, mes solement allowance pur son labor, s. les fées vsuall pur le execution del brieues: et si auter serue les brieues, le viscount ne perde riens, car il ne prist ascun labor. Et illint si le roy change son officer, n'est ascun tort fayt al officer, et illint il ne poet esse semble a les auters cases. So much of Qualitie.

Annotations.

DIssimilitudinis explicatæ redditio, hîc appellatur ἀντιπόδοσις, dissimilis redditio. *Ramus.*

The difference betwéene argumentes vnlike and argumentes diuers, is, that in diuers, the simple and absolute disagréeing of two thinges is considered: but in vnlyke argumentes, the vnlike comparison of foure termes, that is of two

things, and the two qualities of the same. In diuers wee affirme the one, and deny the other after a certeine manner; in vnlykes wee deny neither, but onely distinguish the one from the other by the difference in quality. So that all disagreeable arguments may bee handled as vnlyke, if the diuers qualities bee respected.

Canons.

Of vnlikes there is vnlike reason.

Vnlikes agree with vnlike, &c.

Examples bee euery where extant of likes and vnlikes in our lawe.

Elenchs.

Golde is tryed in the fire, but not so, is truth and fidelitie in aduersitie. This is false: for these thinges bee like, not vnlike.

The 22. Chapter.

Of the Aequall.

QVantitie is that whereby things compared are sayd to bee of this or that quantitie.

Quantitie is either aequall or vnequall. Equal are those whose quantitie is equall. And therefore it is an argument from the equall, when one equall is argued or declared by an other.

The equall hath certeine proper signes, whereby it is often expressed in authors, and may, if they want, alwaies be added, for the playner declaration thereof, as, Equall, Alike, The same that, Alwell as; Somuch howmuch; Somany howmany; No lesse, no greater; and such like. Yet equals are sometimes expressed without any note at all.

Thomalin in July vseth notes.

Al soone may shepheards clymbe to skye,
that leade in lowly dales,
As gotheard proud that sitting hye
vpon the mountaine sayles.

Willy in August.

Neuer

Neuer dempt more right of beauty I weene
The ſhepheard of Ida, that iudged beauties queene.

Maiſter Plowden Fol. 15. a. Car come proprement come il appent al office del brasier en l'auter caſe a weyer et metter en fiew le dit belle, ou al office del taylor, a ſhaper le panne; ey properment il appent al office del collector a weyer choſe pur que le ſubſidie ſerroyt pay.

Fol. 7. a. Iſſint ſi home eſt tenus in vn obligation ſur condition de enfeoffer I. St. et il fayt leaſe pur ans, et releaſe a luy en fée, il ad performe le condition, coment que il n'ad performe les parolles. Et vncore les parolles d'un condition d'obligation doyent eſſe performe ey ſtraytment come les parols daſcun ſtatute: mes entant que l'entent et effect eſt performe et ceo que counteruaylera les parols, il ſuffiſt.

Annotations. Canons.

This Logical quantity is moſt generally to bée vnderſtood. And therefore all thoſe words bée vtterly reiected, which are not ample ynough to expreſſe the generall nature of this Logicall quantity: As ὑπαρξις, facilis, difficilis, credibilis, incredibilis. Aeque, magis, & minus probabilis; &c. As though no argument were of the more or greater, but that which were rather in, which had more probabilitie, which were more eaſie: And ſo in the leſſe and equall. If a man will reſtrayne the generall nature of this quantity in this ſort, hée ſhall finde himſelfe intangled with repugnant examples in ſuch ſort that for his heart hée ſhall not bée able to ryd himſelfe out. If any thinke I doo but ieaſt, let him reade the third part of Beurhuſius, and make a tryall of his owne ſkill.

Canons.

Of things that be equall, there is equall reaſon and iudgment.

Of equals, if one eyther bée, or not bée; the other muſt in like manner bée, or not bée.

Equall things agrée with equall.

Such thinges as are equall to any other thing, are alſo equall among themſelues. This holdeth not in vnequals, as 3. and 3. are vnequall to 2. and yet equall among themſelues.

If

If you do either adde or detract equall things from things that bee equall, the whole, or remnant will bee equall.

You shall, as is sayde, sometimes meet with equals without any notes at all, as in Terence.

Quando ego non curo tuum, ne cura meum. Sith I meddle not with thine, meddle not thou with mine.

Agayne, the equall is returned against the equall nowe and then, without any forme.

If any one thing bee, or seeme to bee in some two thinges equally: then if it bee not in the one, it shall not bee in the other, but if it bee in the one it shall bee in the other. For the last part, take this example.

If a tutor must bee faithfull, then also a procurator.

But a tutor must;

Therefore the procurator must also.

Or thus more briefly in a contracted syllogisme called an Enthymeme.

A Tutor must bee faythfull and true,

Therefore a procurator must bee so also.

Other Logicians commonly, to confirme and prowe the consequence in the Enthymeme, bring in the Canon before alleaged out of Aristotle, if any one thing &c. But I had rather say, that this connexed syllogisme is good and artificiall, so that no man ought to doubt of the consequence, which is already determined by the lawfulnes of the syllogisme, which is the onely rule of all consequence and coherence.

Now for the partes of this consequence, I meane the proposition and the assumption; I say, the proposition is true, and that I prowe by the definition of the equall. Because there is one and the same, or equall quantity, that is to say, an equall reason in a tutor, and in a procurator. And as for the assumption, it is allowed by the ciuill law.

Yet wee are not altogether to reiect these rules and Canons, but to vse them in writing and speaking, as certaine corollaries, or fruites of this art: and not to put them downe in the art, for that most of them bee to particular, or doubtful and contingent, and also vnnecessary and superfluous.

The second Canon is this. If two things bee equally in a third;

third; then if the one bée, the other shall bée: if not this, neyther that. As, he vseth to lye, therefore to steale. It is not proper and peculiar to man for to sée, therefore neyther to heare.

The third and last. If two bée equally and indifferently in two, then if this bée not in that, the third shall not bée in the fourth: but if that bée, then this also, as in that out of Terence whereof wée spake before, Demea saide to his brother Mitio:

Quando ego, non curo tuum, ne cura meum. Sith I care not for thy sonne, Aeschinus, meddle not thou with my sonne Ctesiphon.

To this place also belonge those consectaries, which proceede from contraries, but are handled by a certaine comparison of equals, as that in Martiall.

Tum seruum scis te genitum blandeq; fateris
Cum dicis dominum, *Sosibiane*, patrem. Sosibian calleth his father maister, therefore hée confesseth himselfe to bée a seruant.

Arist. 2. Rhet. Iphicrates, when hée saw his yongest son, because hée was bigge and tall, preferred to office; said thus. If you take great boyes for men; you will surely make litle men boyes.

4. E. 4. 33. b. Ardern. En precipe vers vn que n'ad riens in le vv. tour del briefe, mes puis il enter in le terre ou purchase ceo, ore per son fait demesne il ad fait le briefe bon. Donq; come le fait le tenant fait mal briefe bon, per mesme le reason, le fait le demandant fra vn bon briefe male, come en le case al barre, si le demandant enter en parcell del demaunde pendant le plée ou briefe.

Choke in 8. E. 4. 21. b. confuta Markam: Fol. 11. 4. Que sic argua, les parties que submittont &c. ne dischargeront les arbitrors sans notice, Ergò les arbitrors ne chargeront les parties sans notice. A que Choke dit, que ceux ne sont contraries, s. discharger les parties sans notice: et charger les parties sans notice: mes charger les arbitrors sans notice, et discharger eux sans notice sont contraries, car come le charge, ne serra sans notice, issint le discharge ne serra sans notice.

This kinde of arguing is not alwayes effectuall, as a man is mortall, therefore a beast is immortall: it holdeth best when the argumentes be repugnant.

Elenchs.

Martiall in his first booke.

Quod *Alpha* dixi, Codre, penulatorum,
Te nuper aliqua cum iocarer in charta,
Si forte bilem mouit hic tibi versus,
Dicas licebit *Beta* me togatorum.

These bee not equall. For although Alpha and Beta seeme neighboures in the Greeke Alphabet, yet they are nothing equall in signification. For Alpha signifieth the chiefe or principall: whereas Beta eyther signifieth that which is second, or els hath no signification at all.

The 23. Chapter.

Of the Greater.

Hitherto of Equalles. Unequals are those which haue not the same quantitie.

Unequall is either more or lesse.

The more is that whose quantitie is the greater: The signes bee such as these. Not onely, but also: Rather this, then that: more then: if this, much more that: and also the Grammaticall comparison.

Diggon in September.

For lyker beene they to plucke away more,
Then ought of the gotten good to restore.

And after

Yet better leaue of with a little losse,
Then by much wrestling to leaue the grosse.

Maister Plowden: Fol. 85. a. Le roy poet wayuer vn issue, et demurrer en ley, et contra: et auters prerogatiues il y ad, mes vncore, per misrecitall, ou misuser, ou misconceiuer del action, il serra lye, et sur tiels matters les briefes abateront, come en les cases de comen persons. Et si le ley soit tiel lou le roy est sole partie, à multo fortiori sera tiel, lou auter person est partie oue le roy.

Fol. 160. Et ſi le habendum donera eſtate en choſe nyent done deuant, et a perſon nient noſme deuant. et altra l'eſtate done deuant, adonques il mieux puit declarer le ſence del parolles en les premiſſes en noſtre caſe, et noſmant ou les premiſſes comprehende le choſe en le habendum, come il fait en noſtre caſe. Here is oftentimes a Logicall gradation, ſometimes ioyned with a Rhetoricall climax.

Annotations.

When this note is in the conſequent, much more, then it is an argumēt from the leſſe, that is, from the leſſe probable. But when it is ſaid, Much leſſe, it is an argument frō the greater, that is, from the more probable. This is Piſcators iudgement. So that all argumentes from the greater ſhould bee negatiue; and, affirmatiue from the leſſe. But, as I haue already ſhewed, ſo I now affirme againe; that wee may reaſon as well affirmatiuely as negatiuely frō equals, greater, leſſe, and all other arguments whatſoeuer, except diuers. For Ramus doth not tye this Logicall quantity, to ſuch particuler conſideration of probability, as Piſcator doth imagine and teach out of Ariſtotle (for if hee ſo did, contrary examples would confute him) but leaueth it free and generall. applyable to any thing whatſoeuer wee can imagine to bee equall, more, or leſſe in any reſpect or conſideration whatſoeuer, and as fit for confirmation as confutation.

This Logicall quantity therefore may bee attributed to any thing incident and conuenient to our purpoſe, as, to dignitie, prayſe, reproche, abilitie and power, greatnes, multitude, conueniency, commoditie, opportunitie, facilitie, difficultie, care, neglect, excellencie, vilenes, and in a worde, to whatſoeuer may bee ſaide to bee equall, more, or leſſe.

They that do otherwiſe determine of this matter, are, as I ſayd, wonderfully troubled with repugnant examples, contrary Canons, and variety of opinions.

They that will haue all arguments of the more to bee negatiue and onely fit for confutation; all of the leſſe, affirmatiue and ſeruing for aſſertion, do put downe theſe Canons out of the 4. chapter of the 2. booke of Ariſtotles Topikes.

When two thinges are affirmed of one, if that which is more like to bée in it, bée not in it, neyther shall that which is lesse lyke, as,

Satrapes, si siet amator, nunquam sufferre eius sumptus queat: nedum tu possis.

If a Lord were her louer, hée could neuer maynteine her; much lesse thou.

When one thing is spoken of two, if it bée not in that, wherein it is more like to bée, neyther shall it bée in that, wherein it is lesse like to bée: as, If the iust shall scarse bée saued, where will the wicked appeare?

When two thinges are affirmed of two thinges, if that which is more like to bée in the one, bée not in it, neyther shall the other bée in the other: as, You breake not the saboth day in losing your ore, and bringing him to the water; therefore much lesse I in losing the daughter of Abraham from the bands of Satan.

Others, as Cicero, Quintilian, and sometimes Ramus, would haue the greater onely to serue for confirmation, and the lesse, for confutation: taking that to be the greater which is the more excellent, more difficult and more incredible: that to bée the lesse which is more abiect, easie, and soner beléeued: and therefore they lay downe these Canons.

That which hath force in the greater, must haue also force in the lesse, as,

Wée haue suffered worse things then these;

Therefore these that bée lesse may bée borne of vs.

Ramus in his last edition leaueth this place free, lose, and at liberty, fit for affirmations and negations. An affirmatiue argument from the greater, is this out of Virgil, which I put downe last.

If the Troianes haue suffered greater thinges, they may also suffer lesse.

But the Troianes haue suffered greater daungers then these.

Therefore they may also beare these lesse.

The proposition is true, as gathering the lesse of the more. For if the greater bée, the lesse will also bée: and in this

this place, that is called the greater, which is more vncredible and intollerable, as to suffer greater mischiefes.

The sillogisme it selfe is conuered, and artificiall, therefore the consequence is good. A Negatiue example is, that in Terence.

If a Lord cannot mayntayne her, much lesse thou. But a Lord cannot, therefore neither thou.

Fayned argumentes from the greater haue good grace as in this last example.

From this place bée deriued pretty gradations conioyned sometimes with a Rhetoricall climax, and sometimes alone without it. With it as,

Neq; verò se populo solùm, sed etiam senatui tradidit: neq; senatui modò, sed etiam publicis præsidijs & armis: neq; his tantùm, verumetiam, &c. *Tully* pro *Milone*.

Without any climax, is that in Terence betwéene Thraso and Gnatho.

Th. Magnas verò agere gratias Thais mihi? *Gn.* Ingentes. *Th.* A'in tu? læta est. *Gn.* Non tam ipso quidem dono, quàm abs te datum esse: id vero seriò triumphat.

Where, (although there séeme to bée nothing but a simple exposition) is conteyned a syllogisticall probation, thus.

Thais giueth you exceeding great thankes, and shée triumpheth for ioy, that the gift came from such a giuer.

Therefore, no doubt, shée thanketh you, and is glad that you bestowed this on hir.

Sometimes the greater is vsed without any notes or signes at all, as in that of *Virgill*.

Talibus insidijs periurio; arte *Sinonis*,
Credita res, captiq; dolis, lachrimisq; coactis:
Quos neq; *Tydides*, nec *Larißæus Achilles*,
Non anni domuêre decem: non mille carinæ.

Counterfayt teares circumuented them, whome neyther the cruell Diomedes, nor fierce Achilles, nor ten yeares warre, nor a thousand ships could ouercome.

Canons.

If a greater quantitie bée (I take quantitie generally, as I sayd before) then the lesse may also bée: but if the greater

bée not, neyther shall the lesse bée.

If the greater and more valiant cannot performe a thing, neyther can the lesse and weaker. But if the greater can doo it, it followeth not straightway that the lesse shall also doe it.

If any chaunce vnlooked for, happen to the greater, it may more easily light vpon the lesse and inferiour.

Si grammatica comparatio addatur ei quod comparatur & in qnæstione versatur, reddit idipsum maius, vt id cui comparatur, sit minus, argumentumq; sit a minori: si vero addatur ei, quod ad arguendum adhibetur, argumentum est à maiori, itaq; tam in maiorum quam in minorum collocatione locum habet. Nam comparatiuus & superlatiuus superant positiuum, & id cui adduntur, maius esse significant, vt etiam verba quæ similem vim habent; vt malo, præstat &c. *Waßerleider.*

Falsum est, sayth *Snellius*, quod vulgò dicitur, propositionem hic continere maius, redditionem minus: imo respiciendum est perpetuò ad id quod arguit, si enim illud est maius, argumentum est à maiori, sin minus, a minori, quocunq; in loco ponatur.

In maiori inest minus. Non debet, cui plus licet, quod minus est, non licere. Vnde illa consectaria: Cui ius est donandi, eidem & vendendi, & cõcedendi ius est, plus enim est donare: (quod profusionem quandam patrimonij continet) quam vendere (quod administrationis & vtilitatis est propter pretium) aut concedere, quod amicitiæ est, vt in commodato aut precario. Et illud, cum quis poterit alienare, poterit & consentire alienationi.

3. E. 4. 24. Danby lest: de 8. H. 6. ca. 9. Done treble dammages vers cestuy que enter oue force, ou teigne oue force. Et si lesta: done treble dammages pur l'un tout tantum, à fortiori pur ambideux. Jllint le briefe bon que ioyne vtrumq;.

Hée that may doe the more may doe the lesse: Doct. Stud. pag. 114.

The

The 24. Chapter.

Of the leſſe.

The leſſe is that whoſe quantitie is leſſe. The ſignes of it are theſe. Not this onely, but not that. The denying of the equall, or equality: a grammaticall compariſon.

In Auguſt, Perigot and Willy.

A chapelet on her head ſhe bore,
hey ho chapelet:
Of ſweet Violets therein was ſtore,
ſhe ſweeter then the Violet.

Thenot in Nouember.

She, while ſhe was (that, was, a wofull word to ſayne)
For beauties prayſe, and pleaſaunce had no peare.

Maiſter Plowden Fol. 57. a. Et quant a ceo que fuit aurt dit per luy, que ſi le party ſerroyt force a monſtre coment il auoit tytle, que donques poet eſtre, que il auoyt duble tytle (come en le caſe miſe) et le monſtrans de ceo fairoyt le plee double: ſir, quant a ceo, les plaintifes ont preuent ceo aſſets bien: car pour doubt que le plee ſerroit double, ils ount monſtre riens: et ore il eſt pier que double plee: car double plee ad matter de ſubſtance, mes icy n'eſt aſcun matter de ſubſtance.

There is alſo a gradation ſometimes from the leſſe.

Annotations.

As before in the greater, ſo here in the leſſe, the common Logicians differ. Some wil haue that to be leſſe which is leſſe probable: briefly, when the antecedent in the Enthymeme is leſſe probable than the conſequent. Theſe men will haue all arguments from the leſſe, to be affirmatiue; and they frame axiomes hereof accordingly, correſpondent to thoſe of the greater.

If any thing be in that, wherein it is leſſe like to be, it ſhall alſo be in that, wherein it is more like to be, as, If brute beaſtes loue their young ones, how tender a care ſhould

should we haue of our children?

If that bee in a thing which is lesse like to bée in it, then that must bee in it, which is more like to bée in it, as, God careth for the fowles of the ayre, therefore much more for you.

If two thinges séeme to bée in two, the one in the other: and that bee in, which is lesse like to bee in, then the other shall bee in the other.

If wée, béeing enemies to God bée reconciled vnto him by Christ his death, then
Wée, béeing now reconciled vnto God, shall be saued by Christ his life.

Others, (whome Ramus followed in two editions of his Logike) take that for the lesse, which is lesse difficult, which may soner bée in the thing: Where they might perceiue, if they marked, that indéede, such things as are more easily in, bée commonly the greater in strength, power, and dignitie. But they, not regarding this, haue framed such an axiome or Canon.

If a thing bée not in that, wherein it is most like to bée, then it shall not bée in that, wherein it is lesse like to bee: so that, according to their mind this place should serue onely for negatiue arguments, they vse this example.

A Lord cannot keepe her, therefore neyther thou.

Where the argument is rather from the greater.

Ramus therefore at the length left this place also generall and appliable aswell to affirmation as negation. An affirmatiue is this out of Ouid.

If thou care for the body, much more wilt thou care for the soule:
But thou doest that: therefore this.

A Negatiue.

If God doe not reiect the sparrowes, much lesse you:
But he contemneth not them: therefore not you.

As the argument of the equall is vsed oftentimes in opposing one equall against another, so these of vnequalles, bée sometimes in a very long continued spéeche matched together, as in Ouid, where hée by a continued comparison of his owne miseries with those of Vlisses, inferreth that which he intended

intended, that hée was more to bée lamented then Vlisses: And these may bée sayned also, as ante leues ergò &c. in Virgil. Heere is also sometimes a gradation, as in this, facinus est vincire ciuem Romanum: scelus verberare: propè parricidium necare: quid dicam in crucem tollere? *Ramus.*

Glanuil chiefe iustice in H.2. dayes, lib.7.ca.10. Notandum quòd si quis in capite de domino rege tenere debet, tunc eius custodia ad dominum regem plene pertinet, siue alios dominos hãbere debeat ipse hęres, siue non, quià dominus rex nullum habere potest parem, multò minus superiorem.

Elenchs.

As when you take that for lesse which is not lesse. As if a boy can paynt, then a man can paynt, for although a boy bée lesse then a man, yet a boy may sometimes sooner paynt then a man.

So then by these generall heades thus distinguished, wée haue the meanes and way of inuention put down. Although Menon make a great shewe of proofe that there is no art or order in inuention: for it were in vaine, quoth hé, to séeke for that which wée haue found alreadie, & it is impossible by search to find ỹ which we know not when wée sée it: Socrates goeth about to dissolue this Dilemma, by I cannot tell what mistery of Pythagoricall philosophie, and saith that our Discere is nothing els but Recordari; and that our soules were adorned with perfection of all knowledge from eternitie, but enclosed in this fleshly dungeon of the body, waxed dull, yet by the application of one thing to an other, remembred that againe which they had forgotten before.

Aristotle aunswereth it after an other maner, and saith, that hée who séeketh, knoweth generally what hée séeketh, though not in particularitie: so by this generall note and marke hé may obserue the speciall, whereof hé was ignorant before. And this is true in part, for when wée haue conceiued the generall precepts of any art, then doe wée search the particularities by the generall direction of those rules. But if Menon should goe further, and bring in that first inuention of man, when there was no obseruation either of generall or speciall, how would this aunswere suffice? There-

fore, for a finall resolution, I say, that mans soule hath in it a naturall power and abilitie, whereby it is apt to conceiue any thing, if it bee directed, turned, applied, and bent thereunto: so saith Aristotle, 2. de demonst. that our soule brought not with it into the body the knowledge of thinges, as Socrates imagined, but onely a facultie and power of vnderstanding; as our eyes haue not the distinct kindes of colours ingrauen in them by nature, but onely an abilitie of seeing colours. So then, as a man looking on colours, seeth: in like maner by applying his spirit and vnderstanding to thinges vnknowne, he may by the diligent perusing of these generall heades, finde, what hee seeketh now, and knew not heeretofore. But to him onely, as Tully sayth, will these generall predicamentes or Categories of argumentes become profitable indeede, which hath beene a trauailed and a well experienced man in matters of importance, which age and continuance of time affordeth, or hath read much and heard more, which studie and diligence yeeldeth. Subacto enim ingenio opus est &c.

If we shall for exercise sake vse to draw any one word through these generall places of inuention, it will breede a great plentie and varietie of new argumentes, while wee marke what be the causes, effects, parts, whole, generall, speciall, subiectes, adiunctes thereof, and so forth in all the rest: and this either in making and enditing our selues, or els in resoluing, and as it were dismembring that which others haue done.

For the first, let that example of Nobilitas serue, put downe by Sturmius: For the later, we will take, Amicitia, out of Tullies dialogue, called Lælius. The examples be placed according to the vsuall distribution of arguments framed by Ramus, not according to this lately put downe by my selfe. The matter is not great: it may soone bee altered, and should haue bene now, if time had suffered.

Causæ efficientes Nobilitatis. γενεθλιῶται.

Maiorum præclara facta, & generis diuturna comprobatio, stirpisq; antiquitas atque amplitudo: hæ procreantes, conseruantes istæ.

Virtus

Virtus & continentia in posteris, quæ maiorum laudibus respondeat.

ἄϊτια συνεργοῦντα.

Liberalitas, fortitudo, clementia, cęteræq; virtutes cum corporis pulchritudine copulatæ.

Destruentes.

Morum turpitudo, ignoratio, inhumanitas, vultus Centauricus, & habitudo *Polyphemi* Cyclopica.

Materia.

Ipsa generis antiquitas, & propria virtutis præstantia, frequenti actionum celebritate confirmata.

Forma.

Ista ipsa nominis amplitudo, longinquitate temporis confirmata, & hominum comprobatione stabilita.

Finis.

Vt quæ à maioribus præclarè iacta sint nobilitatis fundamenta, à posteris perficiantur, vt & sibi honori, & amicis voluptati & reip. emolumento esse possint.

Effecta.

In Tyrocinio & exercitationibus militaribus aut cæteros æquales superasse viribus & virtute, aut melioribus & magnis, industria fuisse parem: Sub literarum magistris magnam & diuturnam operam nauasse, & progressus magnos in doctrina fecisse: summa semper temperantia & sobrietate præditum fuisse: optimis & clarissimis imperatoribus stipendia fecisse: In nullo nisi iusto bello militasse: in hostem lenem & misericordem, non sæuum & crudelem extitisse: in acie & oppugnandis ciuitatibus semper inter primos visum fuisse: Duxisse exercitum: Appellatum imperatorem à militibus: Parua manu magnas copias sæpè fudisse: Sese pro patria deuouisse, aut voluisse deuouere, si permississent milites: Ex prędâ vel nullam pecuniam accepisse, vel cęteris parem: Res à se gestas historia complexum esse: Domi & in pace prudentem senatorem, charum suis, iucundum omnibus sese prębuisse: Principem senatus fuisse: Bis triumphasse: Tertiò consulem fuisse: semper fuisse verum & constantem, nunquam vanum & leuem.

Subiecta.

Animus reuera nobilis & magnanimus, & virtutum præsidijs vndiq; circumseptus.

Adiuncta.

Clarum esse, & illustrem: omnium gentium literis ac linguis celebrari: deduci: assurgi: &c.

Diuersa.

Non omnem à maioribus habuit nobilitatis opinionem, sed & suis virtutibus exornatam.

Disparata.

Non in simulata mentitæ nobilitatis vmbra delitescit, non pecuniarum copijs euectus est, sed & suis & suorum factis illustratus.

Relata.

Nobilitas est rei nobilitatæ nobilitas.

Aduersa.

Nobilitas & obscuritas: nouitas & antiquitas: humilitas & amplitudo.

Priuantia.

Nobilis & ignobilis. Clarus, obscurus.

Paria.

Claritas & splendor: Antiquitas & vetustas.

Maiora. Minora.

Pulchrius est fieri, quàm creari nobilem.

Ortus præclarus est exoptandus, multò magis itaq; animus generosus, & mens excelsa.

Similia.

Ciuitas in qua nobiles non sunt, similis est ijs hortis, in quibus flos nullus est insignior.

Dissimilia.

Non vt herbæ vitiosæ abijciuntur, ita si quis nobilis vitiosus aliqua in parte sit, spoliari debet auito nomine.

Coniugata.

Nobilitas, nobilis, nobilitare, nobilitari, nobile factum, homo nobilitatus, & virtus nobilitata; nobili loco natus, & natus nobili genere, & nobilissima familia, aut stirpe antiquissima ortus, & generosa stirpe procreatus.

Notatio.

Notatio.

Nobilitas indè nominata est, quod eorum qui nobiles sunt, nota virtus esse debeat.

Distributio ex causis.

Nobilitas in ciuitatem, familiam, gentem distributa est.

Ex effectis.

Nobilitas alia vera, orta ex clara familia, & virtutibus maiorum respondens, alia noua quidem, non adiuta maiorum gloria, bona tamen & industria, & cupida honestatis. Tertia, calida & malitiosa, quæ non virtute, sed simulatione, & falsa specie virtutis sibi nomen conatur comparare. Quarta verò quæ vitijs atq; flagitijs dedita est, dedecus familiæ suæ, profundens omnes opes, amittens domesticam laudem, profligatæ audatiæ atq; malitiæ. *Ex subiectis.*

Nobilitas, vel *Græcorum* est, vel *Romanorum*, vel *Persarum*, vel *Medorum*, vel gentium aliarum.

Ex adiunctis.

Hominum alij nobiles, alij ignobiles.

Definitio.

Nobilitas est generis antiquitas, ortum habens vel à diuino aliquo principio, vel maiorum virtute præclara, humanæ societatis consensu comprobata.

Descriptio.

Nobilitas est nominis amplitudo, virtutis comes, virtute conformata, quæ breuitatem vitæ posteritatis memoria consolatur, quæ facit vt absentes adsimus, viuamus mortui: cuius deniq; gradibus homines in cœlum videantur ascendere.

Testimonia.

Malo, pater tibi sit *Thersites*, dummodò tu sis
Aeacidæ similis, *Vulcaniaq;* arma capessas;
Quàm te *Thersitæ* similem producat *Achilles*.
Inquit *Iuuenalis*.

Nobilitas sola est, atq; vnica, virtus. Vt rectè Poëta.

Non domus dominum, sed dominus domum nobilitare debet, si fidem *Ciceroni* adhibeamus.

Thus haue we handled this argument, Nobilitas, throughout most of the places of Logicall Inuention; which shall suffise at this time for an example of Genesis in this first

part of Logike. Now let vs in order of Analysis, apply such arguments to this word, Amicitia, as we can readily find in the forenamed Dialogue.

Causa efficiens. Natura, Virtus.

Quapropter à natura mihi videtur potius quàm ab imbecillitate orta amicitia, & applicatione magis animi cum quodam sensu amandi, quàm cogitatione quantum illa res vtilitatis esset habitura &c.

Quod si tanta vis probitatis est, vt eam vel in eis quos nunquam vidimus, vel, quod maius est, in hoste etiam diligamus, quid mirum si animi hominum moueantur, cum eorum, quibuscum vsu coniuncti esse possint, virtutem & bonitatem perspicere videantur?

Causa adiuuans.

Quanquam, confirmatur amor, & beneficio accepto, & studio perspecto, & consuetudine adiuncta, quibus rebus ad illũ primum motum animi & amoris adhibitis, admirabilis quædam exardescit beneuolentiæ magnitudo, quam siqui putant ab imbecillitate proficisci, vt sit per quam quisq; assequatur quod desideret, humilem sanè relinquunt, & minimè generosum, vt ita dicam, ortum amicitiæ, quam ex inopia atque indigentia nasci volunt &c.

Adiungitur etiam & rerum conuenientia, & morum similitudo, & voluntatum summa consensio.

Destruens.

Contentiones, luxurię conditiones, vel commodi, honoris ambitus, pecuniæ cupiditates, iniquę postulationes, morum dissimilitudo: dispares enim mores disparia studia sequuntur: quorum dissimilitudo dissoluit amicitias, &c.

Materia.

Id in quo est omnis vis amicitię, voluntatum, studiorum, sententiarum summa consensio.

Forma.

Ipsa animorum coniunctio.

Finis.

Vt vsu eius quem diligere cęperunt, fruantur & moribus; sintq; pares in amore, & equales, propensioresq; ad bene merendum quàm ad reposcendum. Et infra.

Aliso

Alios autem dicere aiunt etiam multò inhumanius, quem locum breuiter perstrinxi paulò antè, præsidij adiumentiq; causa, non beneuolentiæ neque charitatis, amicitias esse expetendas.

Effecta.

Cui potest esse vita vitalis, vt ait *Ennius*, qui non in amici mutua beneuolentia conquiescat? Quid dulcius, quàm habere quocum omnia audeas sic loqui vt tecum? Quis esset tantus fructus in prosperis rebus, nisi haberes qui illis æquè ac tu ipse gauderet? Aduersas verò res ferre difficile esset sine eo qui illas grauius etiam quàm tu, ferret. Deniq;, cęterę res quæ expetuntur, opportunæ sunt singulę rebus fere singulis: diuitiæ, vt vtare; opes, vt colare; honores, vt laudere; voluptates, vt gaudeas. Valetudo, vt dolore careas, & muneribus fungaris corporis: Amicitia plurimas res continet, quoquò te verteris prestò est, nullo loco excluditur, nunquam intempestiua, nunquam molesta est. Infra.

Nam et secundas res splendidiores facit amicitia, & aduersas patiens cōmunicanſq; leniores. Cumq; plurimas & maximas commoditates amicitia contineat, tum illa nimirum præstat omnibus, quod bona spe prelucet in posterum, nec debilitari animos aut cadere patitur: verum enim amicum qui intuetur, tanquàm exemplar quoddam intuetur sui. Quocirca & absentes adsunt, & egentes abundant, & imbecilli valent, &, quod difficilius dictu est, mortui viuunt: tantus eos honos, memoria, desiderium prosequitur amicorum, &c.

Subiectum.

Sed hoc primum sentio, nisi inter bonos amicitiam esse non posse. Et

Quanta autem vis amicitiæ sit, ex hoc intelligi maximè potest, quod ex infinita societate generis humani quam conciliauit ipsa natura, ita contracta res est, & adducta in angustū, vt omnis charitas aut inter duos, aut inter paucos iungeretur. Et,

Itaq; verę amicitię difficilimè reperiuntur in ijs, qui in honoribus req; publica versantur.

Adiuncta.

In amicitia autem, nihil est fictum, nihil simulatum: & quicquid

quicquid in ea est, idem verum & voluntarium est. Et,

Vt igitur & monere & moneri, proprium est veræ amicitiæ, & alterum liberè facere, non aspere; alterum patienter accipere, non repugnanter, sic habendum est, nullam in amicitijs pestem esse maiorem, quam adulationem, blanditias, assentationem.

Diuersa.

Suis autem incommodis grauiter angi; non amicum, sed seipsum amantis est.

Disparata.

Quocircà, mœrere hoc eius euentu, vereor ne inuidi magis quàm amici sit.

Relata & Coniugata.

Sed vt tum ad senem senex de senectute, sic in hoc libro, ad amicum amicissimus de amicitia scripsi.

Aduersa.

Quæ enim domus tam stabilis, quę tam firma ciuitas est quę non odijs atq; dissidijs funditùs possit euerti?

Priuantia.

Beneuolentia, amor, affectio, & ἀπαθεία.

Paria.

Itaq; non aqua, non igni, non aëre, vt aiunt, pluribus locis vtimur quàm amicitia. Et,

Verum enim amicum qui intuetur, tanquam exemplar quoddam intuetur sui. Et,

In amicitia, equè nefas sit, turpè aliquid & facere rogatum, & imperare.

Maiora. Minora.

Apertè enim odisse magis ingenuum est, quàm fronte occultare sententiam. Et,

Quid enim potest esse tam flexibile, tam deuium quàm animus eius, qui ad alterius non modò sensum ac voluntatem, sed etiam vultum atq; nutum conuertitur?

Quod si hæc apparent in bestijs, volucribus, agrestibus, natantibus, cicuribus, feris, primùm se vt ipsę diligant (id enim pariter cum omni animante nascitur) deindè vt requirant atq; appetant ad quas se applicent eiusdem generis animantes, idq; faciunt cum desiderio, & cum quadam similitudine amoris humani,

humani, quantò id magis in homine fit natura, qui & seipse diligit, & alterum requirit, cuius animum ita cum suo commiscear, vt efficiat pœnè vnum ex duobus?

Similia.

Est igitur prudentis, sustinere, vt cursum, sic impetum beneuolentiæ: quò vtamur quasi aquis tentatis, sic amicitijs, aliqua ex parte periclitatis moribus amicorum?

Et illud.

Veterimæ quęque, vt ea vina quę vetustatem ferunt, esse debent suauissimæ: verumq; illud est quod vulgò dicitur, multos modios salis simul edendos esse, vt amicitiæ munus expletum sit. Nouitates autem, si spem afferunt, vt tanquam in herbis non fallacibus fructus appareat, non sunt illę quidem repudiandę, vetustas tamen suo loco conseruanda est.

Dissimilia.

Nec enim illa prima vera est, vt quemadmodum in se quisque, sic in amicum sit animatus.

Coniugata.

Plurimùm in amicitia amicorum benè suadentium valeat autoritas.

Notatio.

Vtrumq; enim, & amor & amicitia, dictum est ab amando.

Diuisio.

Sed nescio quo pacto, ab amicitijs perfectorum hominum, id est sapientum, ad leues amicitias deflexit oratio.

Definitio.

Est autem amicitia nihil aliud nisi omnium diuinarum humanarumq; rerum, cum beneuolentia & charitate summa consensio.

Descriptio breuis.

Amare autem nihil aliud est nisi eum ipsum diligere, quem ames, nulla vtilitate quęsita.

Descriptio explicata.

Equidem ex omnibus rebus quas mihi aut fortuna aut natura tribuit, nihil habeo quod cum amicitia *Scipionis* possit comparari. In hac mihi de Republica fuit consensus, in hac rerum priuatarum consilium, in eadem requies plena oblectationis fuit. Nunquam illum, ne minima quidem re offendi, quod

quidem senserim, nihil audiui ex eo ipso quod nollem: vna domus erat, idem victus, isq; communis: neq; solùm militia, sed etiam peregrinationes, rusticationesq; communes. Nam quid ego de studijs dicam cognoscendi semper aliquid atque discendi? In quibus remoti ab oculis populi, omne otium tempusq; contriuimus?

Testimonium.

Agrigentinum doctum quendam virum, carminibus Græcis vaticinatum ferunt, quæ in rerum natura totoq; mundo constarent, quæque mouerentur, ea contrahere amicitiam, disipare discordiam. Et,

Rectè *Ennius*, Amicus certus in re incerta cernitur.

Et illud.

Verum igitur illud est, quod à *Tarentino Archita*, vt opinor, dici solitum, nostros senes commemorare audiui, ab alijs senibus auditum; si quis cœlum ascendisset, naturamq; mundi & pulchritudinem syderum perspexisset, insuauem illam admirationem ei fore, quæ iucundissima fuisset, nisi aliquem cui narraret, habuisset. Postremò

Sed nescio quo modo verum est, quod in *Andria* familiaris meus *Terentius* dicit, Obsequium amicos, veritas odium parit.

Thus much for these two wordes, Nobilitas and Amicitia. The like would I haue all Logicall Lawyers to attempt in our common Lawe. At the first it will seme harde and troublesome: but vndoubtedly the spedy profite accompanyed with a sweete delight, will sone ouertake, and quite ouercome the paynes before sustained: and so much the rather, for that it is impossible, any profession whatsoeuer, to bee more Logicall then is the Law. For proofe; if you take but that little tractate of Millenage in Maister Littleton, you shall finde, if not all, yet not many lesse then all these arguments, vsed in the same discourse, within the compasse of eight little leaues, whereof some bee bestowed on some other matters.

THE

THE SECOND BOOKE.

Of Diſpoſition.

THE FIRST CHAPTER.

HEtherto of Expoſition of Arguments called Inuention, the firſt parte of Logike: Now folowеth the ſecond, which is Diſpoſition.

Diſpoſition is the ſecond part of Logike concerning the diſpoſing of Arguments, thereby to iudge well of them: and therefore this ſecond part is called both Iudgement and Diſpoſition.

Annotations.

Τάξις among the Grecians, is Diſpoſition with the Latiniſtes. So then the ſecond part of Logike is called Diſpoſition of the forme of the ſame ſecond part, for that, as in Grammer Syntaxis beeing the ſecond part, ordereth & diſpoſeth ſimple words handled in the firſt; ſo τάξις, Diſpoſition in Logike doth artificially place, ſettle, and diſpoſe ſingle argumentes one with an other, and that firſt axiomatically, in ſeuered axiomes: then, proceeding forwardes to a Syllogiſme and methode, as occaſion ſhall ſerue. For examples ſake, this ſentence, a villeine regardant is a villeine, is true Engliſh, becauſe the nominatiue caſe and the verbe be placed Grammatically, according to the preſcription of Syntaxis: ſo the ſame ſentence is a true Logicall axiome, becauſe the generall is affirmed on the ſpeciall, in a ſimple axiome, according to Art in Diſpoſition. Now, this ſecond part of Logike is alſo called κρίσις, Iudicium, Iudgement, of the vſe, commoditie, and ende thereof. For that, by a certeine direction, rule, and preſcription of Diſpoſition, ariſeth iudgement of the trueth or vntrueth of any axiome; the conſequence or inconſequence of any Syllogiſme: and the perſpicuitie or confuſed obſcuritie of any methode or proceeding.

The ſecond Booke.

The ſecond Chapter.

Of Axiomes affirmatiue and negatiue.

DIſpoſition is either of one ſentence, called Axiomaticall: or of more then one, called Dianoeticall. An Axiome or propoſition is a diſpoſition of one argument with an other, whereby wee iudge a thing to bee, or not to bee.

An Axiome hath two partes, the bande, and the partes bound: the band is that, which bindeth the other partes together. The partes bound, be either the former or the later. The former is that which goeth before, and is called the antecedent: the later, that which followeth, called the conſequent, As

Ah God that Loue ſhould breede both ioy and paine.

Where, Loue, being the cauſe and firſt part, is coupled, by the band, ſhoulde breede; with his effectes, both ioye and payne, the latter part.

An Axiome is either affirmatiue or negatiue, affirmatiue when the bande of the Axiome is affirmed. Negatiue, when it is denied, and although in Engliſh, the negation come after the bande, yet in reaſon it goeth before, and denyeth the bande aſwell as in other languages.

From this affirmation and negation ariſe all contradictions, when the ſelfe ſame Axiome is both affirmed and denied, As,

Dido my deare, alas, is dead,

Dido n'is dead, but into heauen hent. Dido is dead, Dido is not dead.

Maiſter Plowden. Fol. 10. b. Les ſtatutes doyent eſtre conſtrues ſolonq; les reaſons del comon ley: the negation whereof will make this contradiction, les ſtatutes ne doyent eſtre conſtrue ſolonq; les reaſons del comon ley.

Annotations.

SIcut νοητικὸν, à verbo νοεω, ſic διανοητικὸν, à διανοεισθ dicitur. Illud verbum à nomine νοῦς, meus; hoc à διανοια, mentis agitatio.

agitatio. νοῦς apud *Ariſtotelicos* eſt cognitio principiorum indemonſtrabilium. διανοια verò, mentis ſeu rationis quidam quaſi diſcurſus, qui aliter λογισμὸς, ratiocinatio dicitur, cùm ratio ex quocunq; propoſito aliud deducit, mouens ſe ab vno ad aliud inueſtigandum, vt præpoſitio declaret motus tractum, ac tranſmiſſionem ipſius νῦ.

[An Axiome:] The Greeke woorde, ἄξιωμα, ſignifieth dignitie, authoritie. The Logicians, as it ſhould ſeeme, toke it for any thing ſpoken, pronounced, tolde, as it were, with authority. It heere ſignifieth any ſentence or propoſition whatſoeuer, wherein one argument, reaſon, conceipt, thing, is ſo conioyned with, or ſeuered from another, as that thereby wee iudge the one eyther to bee or not to bee, the cauſe, effect; whole, part; generall, ſpeciall; ſubiect, adiunct; diuers, diſparate, relatiue, repugnant, diſtribution, definition, teſtimony, like, vnlike, equall, more or leſſe to the other.

[Affirmatiue:] It is proper then to axiomes, not to ſimple arguments, to affirme or deny: as it is to a ſyllogiſme, to confute or confirme. Affirmatio & negatio enunciati, nihil aliud eſt quàm partium compoſitio & diuiſio.

[The bande:] The bande in a ſimple axiome is alwaies a verbe: but this verbe is ſometimes put betweene the two arguments, ſometimes of it ſelfe it ſupplyeth the place of the ſecond argument, as will appeare if you reſolue ſuch implicate propoſitions thus, Plato diſputeth learnedly, Plato is a learned diſputer.

[Contradiction:] In our Trauerſe, which toke name of the French Trauerſe (that is de tranſuerſo, on the other ſide) there is alwaies a manifeſt example of an exact and Logical contradiction betweene two axiomes, the one affirming, the other denying the ſelfe ſame thing that was affirmed: See Maiſter Lambard Iuſt. lib. 2. cap. 13.

Home n'auera eyre ſelle auerment encounter le returne del vicount, quia il eſt officer al court, itaq; le court doyt doner credence a luy. Mes ſi le vicount returne attache, le party dira encounter ceo, nyent attache per 15 iours: iſſint ſ'il returne, que le ten. eſt ſummons, le tenant poet dire, nyent ſummons ſolonq; le ley del terre, car ceo ne trauerſe eyre ſelle-

ment

ment le returne del vicount, mes eſtoit oue ceo aſſets bien ſans aſcun contradiction.

Vide 1 H. 6. 8. Rolf. Enſeint et nyent enſeint, bon iſſue.

The third Chapter.

Of a true and falſe Axiome.

SEcondarily, an axiome is either true or falſe. True, when the thing is euen ſo as it is ſayde to bee: falſe when contrarily: and heere according to the affection of the arguments, we muſt graunt the true, and deny the falſe, abſolutely.

Both theſe bee eyther Neceſſary, or Contingent. Neceſſarie, when an axiome is eyther true or falſe without exception: (yet to a generall axiome, exceptions may bee added to make it generally true.)

What euer wanteth changeable reſt,
Muſt needes decay when it is at beſt. This is neceſſarily true, and his contrary, neceſſarily falſe, ſo this:

There is no greater eſtate, then ſee-ſimple. Contingent is, when it is true in ſuch ſort, as it may bee falſe, or ſo falſe, as yet it may bee true. As,

Great climbers fall vnſoft. This is doubtfull and contingent.

So Maiſter Plowden: Fol. 50. Femes facile ſont illudes et entice al couyne: For although ſome great climers haue great falles, and many women bee ſeduced, yet oftentimes it falleth out, that many of the firſt eſcape from falling: and more of the ſecond preuent illuſions. Here we muſt neither abſolutely affirme nor deny, but diſtinguiſh. The iudgement which wee can haue of this Contingent or doubtfull Axiome, is called Opinion, which in thinges already paſt or preſent, may bee certeine vnto man; but in thinges to come, it is altogether vncertaine, although to God there is no ſuch difference of thinges in reſpect of time, to whome all thinges be preſent.

All preceptes of Artes are or ought to bee neceſſarily and alwayes

alwayes true without exception, and ſo rules of truth: but beſides this, they muſt alſo bée rules of iuſtice, as it were, and alſo of wiſedome or diſcretion, or compendious breuitie.

A rule of iuſtice is an ariome which giueth vnto euery thing his owne, in coupling thoſe thinges together which agrée naturally, wherein vſually are diſpoſed together, the formall cauſe and the thing formed; the generall and his ſpeciall; the ſubiect and his proper adiunct.

A rule of wiſedome, diſcretion, or breuity, is an ariome wherein the arguments diſpoſed may bée mutually affirmed one of another. So that, as the later is verified of the former, ſo the former may bée of the later. The iudgement of theſe three kindes of arioms is moſt certeine and infallible knowledge.

Annotations.

The firſt rule which Ramus calleth a rule of truth is tearmed of the Græcians κατὰ παντός, of the Latiniſts, de omni, becauſe it is abſolutely and in moſt generall manner pronounced of all, without any exception. And it muſt bée affirmatiue. For a negation doth but depriue and take away; and not imprint in mans minde the knowledge of any thing certeinly. So that no negation, although it bée generally true, is fit to make any precept of art, exactly put downe: whoſe duety is, to teach truth; not vnteach vntruths, or to tell what is not true. Therefore ſayth Ariſtotle, an affirmation is more honourable then a negation.

As a true ariome is eyther contingent, or neceſſary: ſo the falſe ariome in like wiſe is eyther variable, or els neceſſarily falſe, that is impoſſible. For, the neceſſary falſe hath a proper and diſtinct name, to wit, impoſſible: but the neceſſary true hath no ſeuerall name: but is called neceſſary, by that generall word.

The ſecond rule of artes is the rule of iuſtice: ſo called of Ramus, for that according to the nature of iuſtice, in this ariome euery argument hath that adioyned vnto it which is by naturall right, his owne, as the forme his thing formed, the ſubiect his owne proper adiunct, the generall his ſpeciall: examples whereof I thought it nothing neceſſary to heape vp

in the text, for that in the chapters of the forme and formed, ſubiect and adiunct, generall and ſpeciall, they are already diſcourſed vpon: and there wanteth nothing but the putting of them together in an axiome, which may ſone bee performed by the direction of rules of axiomaticall iudgment. This rule is called in Greeke καθ' αὑτὸ, in Latine, per ſe: for that both the argumentes in this kinde of axiome, bee eſſentially and by themſelues, their owne nature, force, power, vertue, and inclination linked together. Of theſe Latine words, per ſe, Paulus Venetus, and other ſchoolemen, haue framed this dunſical word of art, Perſeitas, and therof made many kinds, and long diſcourſes.

The thirde and laſt rule, is named of Ramus, the rule of wiſedome or diſcretion; of the effect which it worketh in vs, which is wiſedome, ſayth Rodingus. For, then onely are wee wiſe, then onely haue wee the perfect knowledge of any thing, when wee know it by the firſt cauſes, that is, by ſuch which are immediate, equall, neyther higher, nor lower, neither too generall, nor too ſpeciall, but iumpe, fit, meete, that is, firſt, and therefore reciprocall: and this is performed by this rule. This rule is therefore the rule of wiſedome; teaching generall things in their due place, once, and generally: Speciall thinges in their conuenient time and order, ſpecially, with their ſeuerall ſpecials. Whereas, if a man teach a ſpeciall thing generally, in generall, and in a generall place: or a generall thing in ſpeciall, ſpecially, and in a ſpeciall place, hee ſhall bewray his folly and want of diſcretion in troubling the auditors with his groſſe errour, and tedious Tautologie: Error, in applying a ſpeciall and peculiar thing to a general and vniuerſall matter: Tautologie and vayne inculcation of the ſame thing, in repeating that many times confuſedly, which both might and ſhould haue beene taught but once, and diſtinctly. For if I teach a generall thing ſpecially, that is, in a ſpeciall and inferiour place, I muſt of neceſſitie repeat that ſo many times, as there bee ſpeciall things to which it is applyable, becauſe I left it out in the beginning: whereas if I had put it downe generally, in his higher place, aboue his ſpecials, this once putting downe had ſufficed for all: becauſe

it

it is placed as a generall; and euery generall includeth the whole ſocietie of his ſpecials, and to euery of them is equally appliable, by the order of art and nature.

The Grecians call this rule, καθ' ὅλου πρῶτον: the Latiniſtes, vniuerſaliter primum. καθ' ὅλου πρῶτον, is then, as I ſaid before, when in an ariome, both the argumentes ioyned together bée iumpe, fit, méete, firſt, equal and therefore reciprocall: equall I call them, which are as generall or ſpecial, the one as the other: ſo that the one conteineth no more then the other, neither is the one higher then the other, ſuch an one is this, A man is apt to laugh: A man is reaſonable: A villeyne is either, in groſſe, or els regardant: Logike conſiſteth in Inuention, and Diſpoſition: Logike is an Arte of reaſoning, for here either the definition and the thing defined, or the ſubiect and his proper adiunct; or the forme and the thing formed, or the generall and his ſpecialles, or els whole and partes bée ioyned togither. Such as theſe, bée according to this rule, καθ' ὅλου πρῶτον. And it is ſo called becauſe the ſecond part of the ariome (in this, A man is apt to laugh) is verified of no other thing before man in generall, but firſt of man, then ſecondarily of ſinguler men, as Plato, Socrates, &c. and whatſoeuer is thus ſpoke firſt of the whole antecedent, muſt needes be reciprocall with the ſame antedent. Herevpon, I ſay, was it called καθ' ὅλου πρῶτον, vniuerſaliter primum.

Prima regula, ſayth one, falſos; ſecunda peregrinos; tertia nimis elatos aut abiectos ciues è ciuitate philoſophica excludit. The firſt excludeth all falſe and lame preceptes, which if it were obſerued in our lawe, then all repugnant dreames of Seriéantes and Counſailers that ſerue the time and ſpeake for money ſhoulde not runne ſo currant for good law: nay euery iudgement geuen either without reaſon, or with partialitie, ſhould not ſtand for Iuſtice: euery Semble, ſhould not paſſe for a ſentence, nor euery Dictum fuit, for a Dictators conſtitution.

It is not neceſſary that euery ariome κατὰ παντος, ſhould be general, ſaith Scribonius, for, in aſtronomy, there be many particulers, but it is therefore called De omni, for that it is

neceſſarily true, with affirmation, without exception. Yet a general rule with his particular exception is καθ' παντος, nam exceptio non ſolùm reſtringit regulam, ſed etiam confirmat.

The ſecond rule reiecteth all impertinent matters which are not coherent, nor ſutable to the propoſed argument, but diſcrepant and diſagreable, as precepts of Rhetorike among axiomes of Logike, as in a diſcourſe of Garrantie, to talke of Rickhils remaynders: in a chapter of releaſes, to lay downe the pleading in a writ of right: in the explication of conditionall eſtates, to declare the nature of a deede indented, and a deede polle: among the preceptes of tenants in common, to caſt in peces of releaſes; as the cuſtome is among litle grand mowtemen, who caſt caſe vpon caſe, as Carters dow billets vpon billets, and for euery collaterall trifle, run ouer all the 633. titles of Brookes abridgement.

The third rule, as it is in practiſe hard, ſo in obſeruation it is moſt commendable, and if it bee violated, it argueth a moſt groſſe ouerſight in the vnſkilfull artificer. As if a profeſſor of Logike ſhould ſay, that a cauſe is euer inherent, or, as it were, ingrauen in, and together with the thing cauſed; this were abſurdly ſpoken, for in teaching a ſpeciall thing generally, hee applyeth that generally to all cauſes, which is appropriate naturally to one cauſe, and onely one cauſe, I meane the forme, which is alwayes inherent in the thinge formed, and imprinted in the ſame, whereas other cauſes bee not ſo. Agayne, if the ſame Logicall Doctor ſhould ſay, that the materiall cauſe were the fountayne of all knowledge, or ſhould affirme the ſame of all the other kindes of cauſes ſpecially and in ſeueralty, hee might iuſtly bee reprehended for a double fault, the one, for making a generall adiunct bee reſtrayned and tyed to one peculiar ſubiect: the other, for vainlie repeating that in diuers ſpecials, which was in generalitie to haue beene layd downe but once for all. There is in effect no part of our Law that euer was ordered according to this rule: yet it appeareth that the founders of our Law had a liking thereof, in that they deteſted the contrary vice. Car nous eyomus vne erudition, que ſi home ad briefe framed in le Regiſter pur ſon ſpeciall caſe, præter le generall briefe, et

il

il vſe le generall briefe pur ſon ſpeciall caſe, ceo briefe abatera. Et vide 7. H. 7. In treſpaſſe per le baron et feme, et count del treſpas fayt al feme dum ſola fuit, ceo abatera le briefe. 7. E. 6. 80. Dyer.

Ariſtoteles affectiones has tres ad propoſitiones ſyllogiſmi Demonſtratiui reſtrinxit, ſed *Ramus* eas ad omnia artium precepta rectius accomodauit. In Logike, ſaith Scribonius, wee are not to giue peculiar preceptes fit onely to put downe arts (as Ramus in this place ſeemeth to do, where hee maketh the foreſaid rules of Truth, Juſtice, and Diſcretion, proper and peculiar directions for the conformation of arts) but generall for Ens, and non Ens. So that hee would haue no mention made of the conſtitution and framing of artes purpoſely and ex profeſſo, for that were impertinent, but onely obiter, and by the way, in manner of a Corollary or Conſectary, that it might bee the more tollerable and Homogeneum, that is, the more ſutable and coherent. And ſo I make it heere no diſtribution at all but onely a Corollary.

Impoſsibile quadruplex, ſayth one, Naturæ, vt cœlum digito attingere: Iuris, quod bonis moribus & rationi repugnat: Contradictionis: Facti; hinc impoſsibilium nulla eſt obligatio, the like whereof is in Parkins and diuers yeare bookes.

The fourth Chapter.

Of a ſimple Axiome.

THus much of the common proprieties of axiomes, the ſpecials follow.

An axiome is either ſimple or compound: Simple is that whoſe partes bee coupled together with a verbe.

In July. They beene yclad in Purple.

Maiſter Plowden. Fol. 497. a. Le prior de. S. Iohns auoit l'eſtate del templers.

In Nouember. *Dido* n'is dead.

M. Plowden. Fol. 5. a. Ex nudo pacto non oritur actio. And this is the firſt diſpoſition of argumentes inuented.

In the firſt affirmatiue example, the former part is the ſubiect: the later the adiunct: In the firſt negatiue, Dido, the former part, is oppoſite vnto deade, which is the later parte: and deade is oppoſite vnto Dido, which is the former parte.

And as wee ſee in theſe examples the diſpoſition of agreeable argumentes, as of the ſubiect with his adiunct in the firſt: and of diſagreeable argumentes, as of the oppoſite with the oppoſite in the laſt: ſo wee may diſpoſe after the ſame maner all argumentes agreeable and diſagreeable: alwayes affirming the agreeable, and denying the diſagreeable: except diſtributions and full compariſõs, ſuch as haue three or foure tearmes or partes, and therefore cannot bee diſpoſed in a ſimple ariome, but in a compound.

The ſimple ariome is eyther generall or ſpeciall: Generall is when the later parte is generally referred and attributed to the former. And in general arioms, one of them contradictory to the other, is not alwayes true or alwaies falſe; for if they bee both variable, they may bee both falſe, as,

All that is lent to loue will be loſt.
Nought that is lent to loue will be loſt.
Cheſcun tuer d'un home eſt prohibite per le ley.
Nul tuer d'un home eſt prohibite per le le ley.

As alſo if they bee not varyable, as heere:

Euery creature is reaſonable.
No creature is reaſonable.
Cheſcun Cuſtome eſt ground ſur reaſon.
Nul Cuſtome eſt ground ſur reaſon.

The ſpeciall ariome is, when the conſequent or later part, is ſpecially attributed vnto the antecedent or former parte, not generally: whereof one being contradictory to another, is alwayes true, or alwayes falſe.

The ſpeciall is eyther particular or proper: Particular, when the later part generall is attributed vnto ſome of the former, but without any certaine limitation, and to this the generall is contradictory.

In May Piers, of Shepheards.

Some gan to gape for greedy gouernance.

The generall contradictory whereof, is,

None

None gan to gape for greedy gouernance.
Aſcunes mynes ſont royall
Null mynes ſont royall

The proper Ariome is when the latter part is attributed vnto the former, being a proper, ſinguler, or one thing.

Diggon in September.

Indeede thy Ball is a bold bigge curre,
Whoſe negatiue and contradictory, is
In deede thy Ball is not a bold bigge curre.
Iohn vane *Salsbury* tue l'home felonioulment,
Iohn vane *Salsbury* ne tue l'home felonioulement.

Annotations.

The iudgement of this ſimple ariome is moſte naturall, but in part common to brute beaſtes aſwell as to man, as in all ſinguler matters compriſed in the ariomes called proper. For as Ariſtotle teacheth in the ſecond of his demonſtrations, euery ſenſible creature hath a naturall power and faculty of iudging, which is called ſence; & this ſence 2. Topic: is of him ſayde to bee a certayne kinde of iudgement: and without doubt, the ſence is a moſte vpright iudge of ſuche thinges as are properly vnder his iuriſdiction, as the ſight of colours, the hearing of ſoundes, the ſmelling of ſmelles, 4. Metap.

This iudgement of the ſences is more exact and erquiſite in ſome ſortes of beaſtes, then it is in man. For although man doe ſurpaſſe other creatures in tutching, yet the Egle ſeeth more clearely than hee, the Vultur ſmelleth better, and the Mowld heareth ſooner, as *Plynie* reporteth in the ſecond of his naturall hiſtorie. So that the iudgement of a ſimple ariome is not altogether proper and peculiar to man onely, but that of the generall ariome is mans alone. For although it ſeeme that beaſtes haue ſome little ſparkes of reaſon, as Ariſtotle in the ſecond of his Phyſikes ſpeaketh of the Spider and the Ante, whereunto Galen alſo ſeemeth to yelde, yet in truth this iudgement is nothing els in them, but only the fantaſy or imagination of ſenſible notions, neither can any beaſt conceiue any generall. And though Epicurus did ſo much abaſe mans dignitie, as to attribute the ſouereigne

iudgement,

iudgement and determination of all thinges vnto ſence, not vnto reaſon and vnderſtanding, yet wée know what an infinite & vnſpeakable capacitie mans ſoule is indowed withal, how farre the general is more honorable then the ſinguler, & how wonderfully mans minde worketh of it ſelfe alone without any helpe of ſence, whatſoeuer bée obiected by that ſenſuall, or rather ſenceleſſe and brutiſh Philoſopher Epicurus.

[And in the generall, one of them contradictory to the other, is not alwayes true or alwayes falſe:] this is falſe, ſayth Scribonius, therefore we muſt ſay thus,

All that is lent to loue will be loſt:

Not all that is lent to loue will be loſt.

For, ſaith he, the generall nature of a contradiction is, to diuide betweene truth and falſhode. But there is a generall kinde of contradiction in propoſitions or ariomes, when two generall ariomes are ſo oppoſed the one againſt the other, as what the one doth affirme, the other denieth of and in the ſelfe ſame thing, and theſe can neuer bée both true, but they may be both falſe. This general contradiction is of Ariſtotle called a contrarietie in ariomes by a diſtinct name and title, not a contradiction.

An other kinde of contradiction there is which is ſpecial, and is called by the generall name, a Contradiction, not a Contrarietie, when ỹ one is a generall affirmatiue ariome, the other a particuler negatiue, or contrarilie: which indéede as Scribonius ſaith, can neuer bée either both true or both falſe; Thus then wé ſée the cauſe of this reprehenſion, what it is and how much worth. The diuers acceptation of this word, Contradiction, cauſed an error, and this error a néedles reprehenſion.

Et quia quidam recognitorum modò comparentium non fecerunt viſum, & quidam non venerunt, ideo iurata remanet vſq; ad proximam aſsiſam. Ceo fuit error per trops Juſtices, car l'un part del recorde eſt contrariant al auter: car per le primer parcel, ſ. quia quidã recognitorum modò comparentiũ; l'apparance de touts eſt affirme: et in le ſecond part, ſ. & quidam non venerunt, le non apparãce del parcel des Jurors

eſt

eſt affirme, ſic contrariant, ſ. omnes Iuratores venerunt (car coment q̄ le generall note, Omnes, ne ſoit la miſe, vncore eſt include et implye ſolonq̄ ceſt opinion:) & quidam Iuratores non venerunt. 22. E. 4. 16. 17.

33. H. 6. 26. b. Priſot. Le briefe eſt repugnant en luymeſme; ſ. quod cum ipſe habeat quoddam Cheminum ratione tenuræ ſuæ ad eccleſiam de D. le def. leuauit quendam murum, per quem murum Cheminum habere non poteſt. Iſſint il reherce coment il ad vn chemyne in le p̄emis del briefe, et in le percloſe, il reherce, quod habere non poteſt, niſi ita exponas, habeat de iure, habere non poſsit de facto.

A generall:] Axioma generale eſſe poteſt, etſi nullum ſymbolum generale adijciatur, cuiuſmodi ſunt omnis, nullus, &c. Itaq̄ ſententia axiomatis conſideranda eſt, ſic, Malus vſus abolendus eſt, generale eſt axioma. In euery general ariome both the former and later part muſt bee a thing generall and common to many: and alſo the later part muſt bee generally attributed to the former part, that is to ſay, to all the nature of the former parte, and to all thinges conteyned vnder the ſame former part.

A ſimple ariome, ſayth Piſcator, is generall or ſpeciall: generall is vniuerſall or particular: vniuerſall eyther definite, as euery man is reaſonable, or indefinite, as man is reaſonable: But Ramus expelleth that vncerteine and indefinite ariome; for euery conceipt of the mind is determinatly eyther generall or ſpeciall, and ſpeciall, eyther particular or ſingular, as in that ariome vttered by Hanck. 11. H. 4. 47. Damnum poet eſſre abſq̄ iniuria, the ſence is determinate, that aliquod damnum eſt abſq̄ iniuria, as in that caſe of the three ſchoolemaiſters, where the thirds diligente withdrewe all the ſchollers from the other two.

As for thoſe which they call Subcontrarias; or vnder contraries, they make no true contradiction. For they may bee both true: nay they rather make an argument of partition. For, theſe ariomes:

Some men be lawyers,
Some men be not lawyers.

Be nothing els but a diſtribution of men, as if a man

ſhould diuide men into two partes, whereof the one ſhould bee lawyers, the other ſhoulde bée no lawyers: and theſe axiomes may bée both true.

The other that are called Subalternæ, bée both affirmatiue, or both negatiue, the one béeing generall, the other his ſpeciall: ſo that they make an argument, of the generall to his ſpeciall: As,

Euery knightes ſeruice draweth with it gard, mariage, and reliefe.

Some knightes ſeruice draweth with it gard, mariage, and reliefe.

Equipollence is Grammaticall, Brian in 11. H. 7. 23. intangleth a plaine caſe with this obſcure ſophiſtry of Aequipollentia. Conuerſion of propoſitions turneth good axiomes many times out of their wit: whatſoeuer is good in it, is fet either from reciprocation in argumentes, or from ſyllogiſmes: De modalibus, they ſay, Non guſtabit aſinus: Let fine headed cloyſterers loue them, ſine riuali: they bée nothing but additions of ſeuerall affections of argumentes in an axiome. Suppoſitions are built rather vpon idle ſuppoſals of ſchoolemen, then grounded vpon any ſure foundation of naturall experience. For theſe and all like theſe, no more, but this, As good they were neuer named, as euer beléeued.

The fift Chapter.

Of the congregatiue Axiome.

HItherto of the ſimple axiome. Now followeth the compound. The compound axiome is that whoſe parts bée coupled together with a coniunction, and the partes of the contradiction are alwayes one of them true and the other falſe. Here the turning of the parts is very vſuall.

The compound axiome, according to the nature of hys coniunction, is either congregatiue, or ſegregatiue. Congregatiue is that which gathereth or copleth togither the agréable

able and diſagréeable arguments, affirming the one, and denying the other.

The congregatiue is eyther copulatiue, or conuertiue: copulatiue is that, whoſe coniunction is copulatiue, as that of Thomalyn in July.

But ſhepheard mought be meeke and milde,
well eyed, as *Argus* was:
With fleſhly folly vndefilde,
and ſtout, as ſteede of braſſe.

Maiſter Plowden. Fol. 75. b. Aſſiſes ſont le plus ſpédy ſuites que le ley done. Et le ley plus grandement ceur fauour, et fauour auxi les choſes que font ſpéde et expedition en eeo, et abhorre touts delayes que ſont en retardation del aſſiſes.

The negation and contradiction is,
But ſhepheard mought not, &c. And
Aſſiſes ne ſont, &c.

The true iudgement of this copulatiue axiome dependeth on the truth of euery part: for if all the partes bée true, it is then a true axiome: falſe, if any bée falſe.

Héreunto muſt bée referred full compariſons and ſimilitudes, wherein the coniunction is the very relation it ſelfe, as, Colyn in Ianuary.

And from mine eyes the drizling teares deſcend,
As on your boughs the yſicles depend.

Héere the iudgement is compound, as if hée had ſayd, the yſicles depend on your boughs, and the teares fall from myne eyes.

The contradiction of theſe, are the denials to euery part.

Annotations.

COmpound:] the worde, hypotheticall, which is héere commonly vſed, is neither proper nor fit for this purpoſe. For, in abſolute copulatiue and diſcretiue axiomes, there is no ὑπόθεσις, no condition at all.

Whereas I haue already oftentimes in this ſecond booke vſed theſe words, a Verbe, and a Coniunction: it is to be vnderſtode, that I meane not the naked words: (for that were

Grammaticall, and belonging onely to ſpeech: not Logicall, and perteyning to reaſon:) but the verbe and coniunction of the minde, wit, and reaſon: which indeede is commonly, although not alwaies, expreſſed by ſome ſuch Grammaticall Verbe and Coniunction.

¶ The negation in a copulatiue axiome is not the denying of the parts conioyned; but the denying of the conioyning of the partes As thus,

Shepheardes muſt not be both meeke and milde, and well eyd, and vndefil'd, and ſtout, altogether.

Q. An copulatum axioma ſit ſine notis copulatiuis, vt *Titius, Meuius, Decius* heredes ſunto.

In 22. E. 4. 32. In dett ſur le cuſtome de Londres de forreine attachement, le def. pleade en barre, vn copulatiue, ſ. le record del recouery, et auxi le cuſtome de Londres, le pl. trauerſe l'un part, ſ. le cuſtome, et eſt troue faux per certificat, ergò tout eſt faux, car le nature d'un copulatyue, eſt que ſi part de luy ſoit faux, tout ſerra faux. Bryan.

Legulei aliquando accipiunt, Et, pro, aut, & contra. Vt, home bargaine ou vende ſa terre a vn auter, et couenant de faire vn bone et ſufficient eſtate in fœſumple al bargainee et ſes heyres in le terme de ſ. Michael, procheine; et deuant le terme de ſ. Michael, le bargainee mourſt, hic le bargainor poet et doyt fayre eſtate in terme de ſ. Michael al heyre le bargainee: et vncore les parolles fueront, que il fairoit eſtate al bargainee et ſes heyres: hic, et, eſt priſe, pro, aut. Sed barbariſmus imperitorũ ne doit eſtre preiudiciall al art.

In omni compoſito axiomate, præter diſcretum, duplex eſt modus contradicendi. Primo, cum contradicitur vinculo compoſitionis, & tùm contradictio diuidit verum & falſum, vt *Eſopus* & ingenioſus fuit & formoſus, *Eſopus* non & ingenioſus fuit & formoſus. Secundo, cùm contradicitur compoſiti partibus, vt *Eſopus* fuit & ingenioſus & formoſus, *Eſopus* nec ingenioſus fuit, nec formoſus, & tum non diuidit verum & falſum ait *Piſcator*.

The

The ſixt Chapter.

Of a connexiue Axiome.

A Connexiue Axiome, is that, whoſe coniunction is connexiue, as, Hobbinoll in June.

Then, if by me thou liſt aduiſed be,
Forſake the ſoyle that ſo doth thee bewitch.

Maiſter Plowden Fol. 11. b. Car en 2. R. 2. in treſpaſſe, il eſt tenus come vn maxime, que ſi aſcun home ad intereſt a aſcun choſe per le graunt ou aſſent d'un auter: et le partie que ad tiel intereſt, ne poet auer le principal choſe ſans faire auter choſe, que il poet faire le dit auter choſe, et ceo iuſtifier, ceo que il eſt le meynes a tener a ſon profit.

Whoſe contradiction is, though thou be aduiſed by mee, yet thou needeſt not forſake the ſoyle &c. And, comentq; il ne poet auer le principale choſe ſans faire auter choſe, uncore il nauera ceo &c. For, the affirmation ſignifieth, if the former part bee true, then the later muſt needes follow; wherefore the negatiue and contradictory muſt bee thus: if, or though the antecedent bee graunted, yet the conſequent doth not neceſſarily folow.

Wherefore when wee iudge the connexiue axiome to bee abſolutely true, wee iudge it alſo to bee neceſſary. Albeit the neceſſitie ariſeth onely of, or dependeth vpon the neceſſary copling together of the parts: which may bee when as, notwithſtanding, both the parts ſeuerally diſpoſed are falſe, as in the firſt example: for neyther did hee leaue the ſoyle, nor folow Hobbinols counſayle: which counſayle if hee had folowed, then muſt hee neceſſarily haue left that countrey: for this was his counſayle.

The iudgement of this axiome is certeine knowledge, when the connexion of the parts is neceſſary, but if the parts be variable, and the connexion onely probable, then our iudgment thereof is onely an opinion.

In May the gate to her kiddy:
Thy father had he liued this day
To ſee the braunch of his body diſplay,

How would he haue ioyed at this ſweet ſight?

Hitherto muſt bee referred that relation which is expreſſed by an aduerbe of time.

In December.

Whylom in youth when flowrd my ioyfull ſpring,
Like ſwallow ſwift I wandred heere and there.

As often as thy brother offends, ſo often forgiue him.

Maiſter Plowden: Fol. 541. Quant diuers choſes ſont dit a vn meſme inſtant, et l'un ne poet prendre effect ſans auter; le comen ley aiudgera ceo de preceder et enſuer, en ſeaſant lentent de parties de prender effect.

Annotations. Elenchs.

THe other ariomes are not ſo eaſily abuſed as this. For here the negation is of no force at all, vnleſſe it be directly referred to the band which is a continuation. Therefore although a man might thinke this to bee a Negation.

If *Dido* liue, ſhe is not dead:

Yet indeede, it is an affirmation, whoſe negation ſhould bee thus.

Not if ſhee liue, therefore ſhe is not dead, or, it doth not folow, that if Dido liue, therefore ſhee is not dead.

Beurhuſius giueth this Canon, which ſeemeth ſtrange to many. There may bee an affirmation, though both the partes be denyed, as, if hee bee not induſtrious, hee will not bee learned.

This is Berhuſius his example: the like whereof is this.

If hee bee not in London, hee is not in Cheapeſide. Iſta negatio æquipollet affirmationi, ſ. hee that is out of London, is out of Cheapeſide.

And vnleſſe this bee graunted to bee an affirmatiue ariome, there will be a very good ſyllogiſme made of onely Negatiues, contrarily to the common receaued verſe; for, I can very well reaſon thus.

If it bee not in London it is not in Cheapeſide:
But it is not in London, therefore
It is not in Cheapeſide.

A conuerſiue ariome is that alſo in Maiſter Plowden:

Fol.

Fol. 10.b. **Et il y ad vn principall ou foundation en le comen ley pur construction des parolles, ou clauses, ou sentences, s. que en chescun graunt, ou done, si les parolles soyent ambiguous et doubfull, que ils serra prise plus fort encounter les grauntors ou donors, et plus beneficiall a ceux as queux le graunt ou done fuit fayt.**

[Connexion onely probable:] Contingens est connexio, quando partes pro sua probabilitate tantùm ponuntur, id est, neq; absolutè consentiunt, neq; planè dissentiunt. Itaq; etiam axiomatis veritas ex argumentis siue rebus dispositis, non ex sola connexione dependet: si enim necessitas ex sola connexione esset, omnis connexio esset necessaria, quod nemo dixerit. *Wasserleider.*

[Aduerbe of time:] Fit. cor. P. 385. P. 15. **Quant le defendant pleda al appele de rien culpable, prist a defender per son corps, il doyt getter son gaunce in le court, &c. The same force is in an aduerbe of place in our law, as in that of 1. H. 5. 3. per Hull. Lou vn home demande certeine chateux, et per son briefe est prone, que le property est deuestue de son possession per le prise, la il couyent a luy de metter le price. Here these words, lou and la, bee in sence no more but, if, and then, or when and then.**

Connexum duobus modis negatur: simpliciter quando negatio præponitur coniunctioni; apertius, quandò inconsequentia etiam exponitur; vt si dies est, lucet: non, si dies est, lucet. Et si dies est, non ideò lucet, vel non sequitur lucere. Itaq; non satis accuratè *Boetius* dicit, ad consequentem propositionem respiciendum esse, vt affirmatiua vel negatiua, propositio connexa iudicetur: vt, si est A, est B: affirmatiua est, ait *Boetius*: si est A, non est B; negatiua: at, inquam, tam est affirmatiua secunda propositio hæc, quam illa prima. Deceptus est autor huius dogmatis dissensionis specie, quia illa enunciata dissentirent, nec simul esse vera possent, ideò contradicentia putauit. At contradictio est affirmatio & negatio eiusdem de eodem, illic, si est A, est B; affirmatio est consequentis affirmati de antecedente affirmato: hîc, si est A, non est B, affirmatio item, sed consequentis negati de affirmato antecedente: at affirmatio affirmationi non contradicit, licet opponatur alio genere.

Conuersio

Conneriue axioms bée called Conditionall: of theſe there bée infinite in our lawe, as may appeare by the large titles and diſcourſes of conditions in Littleton, Parkins, Fitzherbert and Brooke. Conditio, ſaith one, triplex eſt: concipitur enim aut in præteritum, præſens, aut futurum. In futurum conceptæ ſunt poſsibiles vel impoſsibiles. Poſsibiles ſunt vel ſimpliciter voluntariæ fortuitæq; (vulgò poteſtatiuæ & caſuales dicuntur) vel mixtæ.

The ſeuenth Chapter.

Of the diſiunctiue Axiome.

THe ſegregatiue axiome is that whoſe coniunction is ſegregatiue, and therefore is fitteſt to diſpoſe diſagréeable arguments, which muſt bée ſeuered.

The ſegregatiue is eyther Diſiunctiue or Diſcretiue. Diſiunctiue is that whoſe coniunction is diſiunctiue, whereunto is referred the diſtributiue. Theſe are fitteſt to diſpoſe repugnant arguments, and diuiſions of two partes.

In September.

Diggon Dawy I bid her good day.

Or *Diggon* her is, or I miſſay.

Touts mynes ſont royall ou baſe mynes.

Héere the contradiction doth not make the partes neceſſarily true or falſe: for if the diſiunction or ſeparation bée true abſolutely and alſo neceſſarily without any thirde thing put betweene, then the whole axiome is true and neceſſary, notwithſtanding the ſpeciall partes by themſelues conſidered may bée contingent, as héere:

Or *Diggon* her is, or I miſſay.

The diſiunction is neceſſary; & yet *Diggon* her is, is a contingent axiome; alſo, I miſſay, is a contingent axiome. But the neceſſitie of the diſiunction dependeth on the neceſſary oppoſition or diſiunction of the parts, not on the neceſſary truth of the partes. If therefore the diſiunction bée but contingent, or

vpon

vpon a ſuppoſition, then it is not abſolutely a true axiome, as when Læander ſayd, he would either bée drowned or haue his deſire. Otherwiſe the iudgement of this axiome, when the oppoſition is neceſſary, is a certeine knowledge.

Annotations.

PIſcator ait axioma diſiunctiuũ præponendum eſſe diſcreto, vt copulatiuum prius eſt connexo. Nam in copulatiuo & diſiunctiuo, pars altera notio ſimplex eſt, altera verò notionum complexio; at connexi & diſcreti vtraq; pars tum antecedens tum conſequens non ſimplex notio eſt, ſed notionum complexio enunciatiua.

Idem *Piſcator* putat axioma diſiunctiuum differre à diſtributiuo. Nam diſiunctio eſt qua partium diſiunctarum vna aliqua pro vera aſſeritur, ita vt cæteræ res ſint falſæ, ſcilicet, cum partes de ſpecie aliqua eius generis, ad quod partes propriè pertinent, enunciantur, vt *Socrates* eſt rationalis, aut irrationalis, ſanus aut æger. At diſtributio eſt, qua partes enumeratæ omnes pro veris aſſeruntur, vnaquæq; cum toto quod diſtribuitur, particulariter diſpoſita, ſcilicet cum partes de ipſo genere aut integro, ad quod propriè pertinent, enunciantur, vt animal aut rationale eſt aut irrationale, aut ſanum aut ægrum, ac ſi dicerem, animalium aliud eſt rationale, aliud irrationale, aliud ſanum, aliud ægrum.

[Læander:] the verſes bée theſe;

Aut mihi continget fœlix audacia ſaluo,
Aut mors ſolliciti finis amoris erit.

Leaſe fait pur ans, payant annuelment xx. s. ou vn toge. This, as alſo the whole title of Election dependeth on this diſiunctiue axiome. The difference is now when it is but for once, or when continuall; if continuall, eliget graunter &c. Vide 9. E. 4. & 17. E. 4.

Congregare, ſegregare, copulare, connectere, diſcernere, diſiungere, bée Latine wordes, yet by vſe made Engliſh. I néede not make any interpretation of them.

The neceſſitie of the diſiunctiue axiome, as is ſaid before, dependeth of the neceſſary oppoſition of the partes, not of the neceſſary truth of the ſame. Which thing béeing not conſide-

red, cauſed not onely Epicurus, who was but a dunſicall Logician, to bée deceiued, but thoſe alſo who thought themſelues great experienced men in this profeſſion, as Chryſippus and Diodorus: for they imagined that if the diſiunction were neceſſary, then the one or the other part of the axiome ſhould be alſo neceſſary, and into the ſame error doth Tully himſelfe fall in his booke de fato.

Elenchs.

Sith the diſiunction is not neceſſary, but when the partes haue no third thing betwéene, this axiome is falſe when wée thus ſay, *Paris* muſt needes eyther walke or daunce, for hée may aſwell holde his peace and ſtand ſtill. So this, Euery francktenement is eyther feeſimple or feetayle, for there bée other freeholds, as pur terme de vie, and pur auter vie.

The eight Chapter.

Of the Diſcretiue Axiome.

THe diſcretiue or diſcerning axiome is that whoſe coniunction is diſcretiue. Wherefore of diſagréable argumentes it is fittеſt to diſpoſe thoſe that are diuers and differ onely in reſpect.

In December.

But ah vnwiſe and witleſſe *Colin Clowt*,
That kidſt the hidden kinde of many a weede,
Yet kyds not one to cure thy ſore heart roote,
Whoſe ranckling wound as yet doth rifely bleede.

Maiſter Plowden: Fol. 82. a. Car parols, que ne ſont que le verberation del ayer, ne ſont leſtatute, mes ſolement l'image del ſtatute.

This axiome is iudged to bée true, when the partes bée not onely true but diuers alſo the one from the other: falſe and ridiculous, when otherwiſe.

Annotations.

Diſſentanea argumenta etiam congregatiuo axiomate enunciari poſſunt, vt mel & dulce eſt & flauum, hîc diuerſa enunciantur congregatiuo copulato. Quin & ſimplici etiam axiomate

mate diuerſa enunciari poſſunt, vt flauedo mellis non eſt dulcedo eius.

Vt occupatiua axiomata non admittunt contradictionem, ita nec diſcretiua; ſed illa apta ſunt ad reſpondendum & contradicendum conſequentibus falſis enthymematum illlorum hominum quibuſcum loquimur: hæc ad contradicendum enunciatis copulatis ex parte falſis, vt *Aeſopus* & ingenioſus fuit & formoſus, hoc falſum eſt ex parte poſteriore: Si ergò hanc falſitatem velim oſtendere contradicendo, non ſatis erit negare copulationem, ſic, *Aeſopus* non & ingenioſus & formoſus fuit. Hinc enim nondum liquet, vtram partem falſam putem: inſtituenda eſt ergò diſcretio ſic, *Aeſopus* non fuit ille quidem formoſus, ſed tamen fuit ingenioſus, & hic ſolus eſt diſcretorum vſus.

Enunciata per, quanquam, et, tamen, videntur συλλητικα, non διακριτικα, vt,

Hſc *Priamus*, quanquam in media iam morte tenetur,
Non tamen abſtinuit &c. Vbi *Virgilius*, nihil diſcernit, ſed lectoris cogitationi occurrit, & contradicit, nam lector videns *Pyrrhum* armatum, facilè obijceret, *Priamum* non audere loqui. Occurrit itaq; *Virgilius* & dicit, quanquam &c. Non tamen &c. Hic eſt ſolus horum vſus. *Piſcator.*

Elenchs.

It is a ridiculous diſcretiue axiome wherein ſuch things are ſeuered, which naturally go ſo together, as that they can not ſomuch as be ſeuered in reſpect, much leſſe in deede.

The ninth Chapter.

Of a Syllogiſme and his partes.

THus much touching the diſpoſition and iudgement axiomaticall, or of one axiome. Now followeth the diſpoſition of more then one which is called Dianoeticall.

The diſpoſition Dianoeticall **is, when one axiome by reaſon is inferred of another, or drawne out of an other, and then it is called eyther ſyllogiſme or methode.**

A Syllogisme is a disposition of three ariomes, whereby or wherein a doubtfull question disposed with an argument inuented, and the antecedent or former part being put and graunted, is necessarily concluded and determined: for, where an ariome is doubtfull, it maketh a question: therefore for proofe of the truth, wee must inuent a third argument, and dispose it with the partes of the question seuerally, one with the one, and one with the other.

There be two parts of a syllogisme: the antecedent, and conclusion: The antecedent proueth the conclusion, and hath two partes, to wit, the proposition and the assumption.

The proposition is the first part, wherein the whole question, or at the least, the latter part of the question is disposed with the argument inuented.

The Assumption is the second part, which is taken out of the proposition.

The conclusion is the last part, proued by the antecedent, and concluding the question which was in doubt.

If any part of a syllogisme bee wanting, it is called then an imperfect syllogisme, or enthymeme. If any thing bee added more and aboue these three ariomes appertaining thereunto, that addition is called a prosyllogisme:

The partes also of the syllogisme are oftentimes disordredly and confusedly disposed or placed: notwithstanding, if any doubt shall arise hereof, the ariome which is wanting must bee supplied, the superfluous prosyllogismes or additions must be cut off, and euery part orderly reduced to his owne place.

Annotations.

A Man may heere aske, why I doe not aswell put down the nature of a false syllogisme as I haue done the definition of a false ariome. I aunswere: that, truth and falshode being incident to the nature of an ariome, both were to be put downe, for that in them both, appeareth the fruite of ariomaticall iudgement: but it is one thing to diuide an ariome into that which pronounceth trueth, and that which conteyneth falshode: and another thing, to tell what is a false,

and

and an inartificiall axiome, made againſt theſe rules and preſcriptions of Arte: the one I did, for it was to bée done: the other, as I did it not in the tractate of axiomes, ſo will I not do it in this diſcourſe of ſyllogiſmes: the ambiguous ſignification therefore, of this word, falſe, was the onely occaſion of this doubt.

As in Grammer, and Rhetoricke, the naturall ordering of nownes and verbes with other partes of ſpeach is commonly altered and chaunged into a more elegant and artificial coniunction, ſo in Logike the propoſition is not alwaies in the firſt place: but is diuerſly diſpoſed, to auoyde ſatietie, and ſuſpicion of Arte.

Wée perceaue héere, by the definition of a ſyllogiſme, that the neceſſitie and vertue of conſequence dependeth vpon the orderly diſpoſition of the queſtion with the argument inuented: ſo that, not the argument properly, but the ſyllogiſticall diſpoſition doth eyther proue or diſproue the queſtion.

Yée is greatly deceaued who thinketh there is no part of iudgement but onely in ſyllogiſmes. For, beſides methode; the firſt, and almoſt the chiefe kinde of iudgement is in axiomes, yea and the very foundation of all other iudgement. For hereby wée iudge of all the principles of all artes, of all playne and manifeſt axiomes. Yea all ſuch queſtions to the which we cannot aunſwere yea or nay (as theſe be: what is it? what partes hath it? where is it? what qualities hath it? when will it come?) are aunſwered by this kinde of iudgement. For, if you make anſwere to that which is demaunded; the hearer is ſatiſfied.

But if theſe axiomes bée not playne inough of themſelues, they muſt bée ſent to ſyllogiſme, there to bée diſcuſſed, and ſo to methode, there to bée ordered. So that, whatſoeuer is eyther by ſyllogiſme, or methode iudged, it is all iudged by the helpe of this firſt and axiomaticall iudgement. For if the premiſſes in a ſyllogiſme bée not ſometimes certayne and ſo iudged by axiomaticall iudgement, and graunted; there will bée no ende of making ſyllogiſmes: when ſtill wé call the groundes thereof into controuerſie, for want of axiomaticall iudgement.

[A Syllogisme:] συλλογισμος is, as it were, συλλογη και ἐπαριτμησις, an Arithmeticall deduction of sums in accompts, and so here metaphorically of axiomes and arguments.

The necessitie of the consequence in a syllogisme dependeth on that olde ground, that such thinges as agree in any third thing, must also agree among themselues. As then, in thinges that be to be measured with line or by weight, we iudge of them as they agree both eyther in line or weight: so it is also when an axiome doth affirme or deny any thing of an other, whereof we doubt. For, if the line or measure, I meane the third argumēt, agree with both ỹ parts of the question, it sheweth ỹ then the affirmation is true: but if it agree but with one of them, it declareth the negation to be true.

ὅταν γὰρ μέσον, sayth Aristotle, ἐξ αἰαγχης, καὶ τὸ συμπέρασμα ἐξ αἰαγχης. Non enim ex omnibus propositionibus veris syllogismus duntaxat efficitur, sed ex duabus necessariò consequentibus, & inter se non minus cohærentibus, quàm annuli inter se cohærent. Oportet enim conclusionem ex superiorum propositionum consecutione exprimi.

There is but one kinde of argumentation, and, that is a syllogisme. For, an Enthymeme is nothing but a contracted syllogisme. If the subiect be one and the same in both the propositions, then the Maior wanteth: but if the predicate, then the Minor. Aristotle calleth it συλλογισμὸς ἀτελὴς. It hath his name παρὰ τὸ ἐνθυμεῖσθαι, that is in Latine cogitare, & commentari, to thinke, to excogitate, to tosse a mans minde, and meditate. For the minde neuer rests when an imperfect syllogisme is put downe, before it hath supplyed that which wanteth, the better to iudge of the whole perfect syllogisme: wherevpon the satyricall poet sayth,

aut curtum sermone rotato,
Torqueat Enthymema. *Iuuenal satyr. 6.*

Maister Plowden Fol. 361. a. Stowell le ayel fuit estrange al fine, et de pleine age al temps del fine leue, ergò il fuit lye. Adde the proposition herevnto, it will bee a playne and perfect syllogisme. So agayne in the same place;

Stowell le demandant fuit estrange al fine, et deins age al temps del fine leue: Ergò il est exempt. Adde the proposi-

tion

tion, and this alſo will bée a full ſyllogiſme.

[The propoſition:] in a compound ſyllogiſme, which they call hypotheticall, the propoſition, that is, the Maior, as they tearme it, conteines the whole queſtion: but in a ſimple one, which they tearme a Categoricall ſyllogiſme, it conteyneth onely the later parte of the queſtion, which is called of them prædicatum, or attributum, the prædicate or attribute, becauſe it is ſpoken, affirmed, attributed or applyed to the former.

[The aſſumption is taken out:] as from a thing put downe and graunted, and now applied more nearely to the purpoſe, of the Latine, Aſſumo.

The ſchoolemen haue commonly foure kindes of Argumentations, Syllogiſme, Enthymeme, Induction, Example, to the which ſome adde Sorites and Dilemma: others alſo there bée, but theſe are the moſt famous: and all theſe, as I ſayd before, come all to one. For an Enthymeme is but a contracted and ſhort ſyllogiſme: An example, but an argument from the like or equall, a facto ſimili ſeu pari, and no argumentation of it ſelfe without the helpe of a ſyllogiſme: An Induction, which is called the Socraticall Argumentation, is but an argument concluded by a ſyllogiſme, from the enumeration of the partes: A Sorites, but an Enthymematicall progreſſion by certaine degrees. Tully calleth it Penelopes telam, becauſe it is wouen as it were, by aſcending and affirming, but vnwouen againe by deſcending and denying: the Stoykes vſed this very much: it is called Sorites of σωρὸς. acervus, a heape, becauſe, as of many graynes is made a heape of corne, ſo of many degrées an argument called Sorites, by this enthymematicall progreſſion. Whereupon the Poet ſayth:

Inuentus, *Chryſippe*, tui finitor acerui.

It is commonly called, à primo ad vltimum, but not ſo aptly, for as well may it bée called, ab vltimo ad primum. As in that which Themiſtocles was wont to vſe:

The Athenians rule all the other Græcians: I rule the Athenians; my wife, mée; my boy, my wife:
Therefore my ſonne ruleth all Greece. Or thus,

My

My ſonne ruleth my wife; my wife commaundeth mée:
I the Athenians; the Athenians all Græce:
Therefore my ſonne ruleth all Græce.

Maiſter Plowden Fol.229.b. hath a Sorites of diuers degrées. Le playntife deriue ſon leaſe de Cocke, quel deriue ſon title del Counte del Pembroke, quel deriue ſon title del roy Edward, quel deriue ſon title per diſcent del roy Henry le huict, quel deriue ſon title per diſcent del roy Henry le ſept, quel deriue ſon title per le fine, et per le mozant del Marques ſans iſſue. Iſſintq; ſi le plaintife ne proue ſufficientment, que le Marques eſt mozt ſans iſſue, et que le roy auoyt eſtate en la terre puis ſa mozt, il ne proue ſufficientment ſa title ne intereſt.

Bracton. lib. 5. Fol. 335. Item, cum nulla ſummonitio nec defalta, nulla ſequi deberet Captio: & cum Captio nulla, nulla ſequi deberet poſſeſsionis amiſsio: Ergò à primo, vbi nulla ſummonitio, nulla ſequitur poſſeſsionis amiſsio, quia vbi primum & principale, quod eſt ſummonitio, non ſubſiſtit, nec ea quæ ſequuntur, locum habere debent.

Laſtly, a Dilemma, is nothing els, but an argument from the contraries or oppoſites, or any diſagreeable argument. It is called Dilemma, of δὶς, and λαμβανειν, to take on both the ſides: becauſe the argumentes are ſo ſet, as that there is no way left to eſcape, as in that of Protagoras the maiſter, and Euathlus the ſcholler: where Euathlus gaue ſome money in hande to his Rhetoricall Doctor Protagoras, and couenanted to pay the reſt when Euathlus ſhould win the firſt cauſe that euer hée pleaded for. Protagoras ſuing Euathlus for his money, ſaide, if Euathlus ouercome mée, then by bargaine & compoſition hée muſt pay mée the money; if hée loſe, then by the courſe of Law. Nay q Euathlus, if I loſe, then by couenant you get nothing: if I winne, then will the iudgement diſcharge mée.

The like is that which Bias vſed, and was reported by Phauorine: If you marry any woman, ſhée muſt either bée faire and ſo ſhall you haue her κοινὴν, common: or els fowle; and then you ſhall finde her πονηρὰν, [illegible]: therefore mary none at all. Nay, ſaide Phauorine, there bée women of middle beautie,

a plaine, a moment

beautie, neyther so fine, as to make euery man to loue, nor so foule, as to make euery man hate them. Therfore a man must marry.

So in Arist. 2. Rhet. A certaine precise priest would not suffer his sonne to haue any dealing or conference with the people. For sayth he, if thou speake truth, thou shalt displease men, if vntrueth, God: May rather feare not to meddle with the multitude, for if thou tell the truth, thou shalt please God, if vntruth, men.

Plowden: Fol. 362. Browne a most Logicall Lawyer concludeth his witty disputation with this Dilemma, Si Stowell fuit lie per le purueu del statute, il est apres except: si ne'st lye per le purueu, ne besoigne destre except, ergo il est, alarge.

I sayd before, that Exemplum, an example, was but an argument a facto simili, seu pari, and that the onely force of argumentation therin proceedeth from disposition syllogisticall: so it is in 4. H. 6. 13. briefe de mayntenance fuit port per deux, ou le tort fuit fayt al troys, la Newton proue que le briefe abatera, quia ne fuit port per touts troys, sic, si le tort fuit en comon, donque eux couyent de prender lour action en comon, et que le tort fuit en comon, ieo prouera, car si eux fuessont nonsuit per cause del mayntenance, cest in comon: si soyssoyent barres per cause del mayntenance, cest in comon, et les expenses del suite sont en comon. ergo, &c.

Neither in these, nor in that called βιαιον Violentum, and such like, is there any new disposition or art of consequence, but onely that of syllogisme.

[A prosyllogisme:] Vide 4. H. 6. 30. In repl bastardie fuit alledge in le maister le auowant, le question fuit, an il auera ayd de son maister, deuant que il retourne al bastardy, et per Martyn, il ne auera.

Le ſyllogiſme eſt iſſint.

Sou nul entry del ayd, la nul ayd.

Si aſcun entry del ayd icy, il ſerra vel eco que eſt deuant ple, ſ. petit auxilium d'un tiel, ſine quo ipſe non poteſt reſpondere: vel apres ple, ſ. petit auxiliũ ad manutenendum exitum, le conſequens eſt prouue,

Icy nul entry del ayd, car mes icy.

Il naera lentry deuant ple, ſ. ſine quo nõ poteſt reſpondere, car il meſme ad reſponde, ſ. ad fayt Conuſance.

Ne lentry apres, ad manutenendũ exitum, car icy nul iſſue eſt ioyne inter eux.

Ergo nul ayd icy.

Ergo nul entry omnino.

ne ſont pluſors que deux maners de entries del ayde, deuant ple, ou apres, l'un in reall action, lauter in perſonell.

Ergo ſi ſort omninò, oportet quòd ſit vel hoc, vel illud.

In 3. H 6. 21. b. Rolf vſa vne proſyllogiſme, vide le lieu.

Canons, Elenchs.

In euery ſimple ſyllogiſme that is not proper, there muſt be ſome affirmatiue and generall argument.

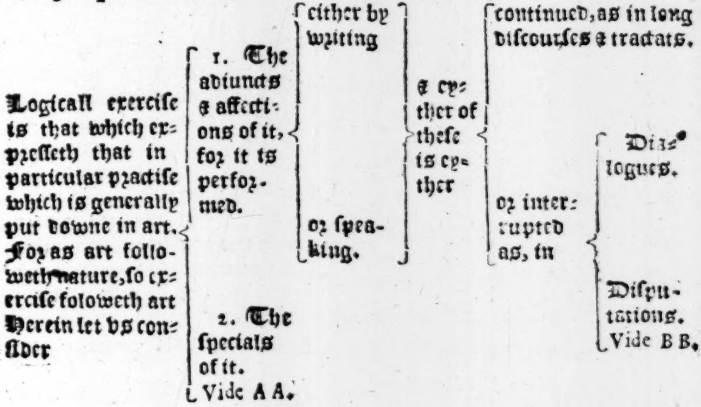
Interdum quoq; ſimplex ſyllogiſmus ex enunciatis compoſitis conſtare poteſt, ſi modo compoſitio ipſa argumenti ſimplex ſit. Vt apparebit aliâs. *Freigius. Snellius. Ramus.*

Here then generally it is a falſe ſyllogiſme, when all the ariomes bee either negatiue or proper. Ex omnibus enim ſpecialibus, aut negatis, nullus communis ſyllogiſmus in vlla figura ſimplici, concluditur. *Ramus.* 2. lib. animaduerſ.

Proximum genus ſyllogiſmi & Methodi ignoratur, itaq; ponitur diſpoſitio.

Vt in connexo & diſiuncto axiomate veritas pendet ex connexione & diſiunctione, non veritate partium, ſic ſyllogiſmus ex neceſsitate conſequutionis, licet omnes partes ſint impoſsibiles, vt, omnis arbor eſt lapis, omnis leo eſt arbor, ergo omnis leo eſt lapis.

In euery ſyllogiſticall conflict and controuerſie, there is a defendant & an opponent. The firſt is to vrge, proue, conclude; the other to repell, auoyd, and driue backe. The diſputation being once begon, it is an vnorderly confuſion for the ſame man ſometimes to aunſwere, ſometimes to reply, and neuer conſtantly to playe out his owne parte: much like the two clownes in Virgill, which, when they could not aunſwere what was propounded, begin a freſhe with a new doubt on the necke of the olde: Dic, quibus in terris, quoth the one, and Dic, quibus in terris, quoth the other, Arrede me a riddle, ſayth Damætas: and Arrede me a riddle replyeth Menalcas, thincking it a faire conqueſt, to haue taken and giuen blowe for blowe, as Bakers and Butchers vſe to doe, who neuer care for any curious wardes, but lay on loade like good fellowes, one for one, till both begin to ſtagger, with their valiant blood about their bruſed pates. I haue therefore in a word or two, layd downe ſome generall inſtructions and directions for orderly diſputations.



BB. Disputation is an argumentable discussing of a doubtfull proposition. where unto.

1. The disputers
- The proponent, who defendeth the proposition or position: whereunto also the moderator and determiner of the disputation is referred, who commonly maintaineth the position.
- The opponent, whoe defendeth the contrary.

2. The duties of the disputers, either,
- commō to both them, as in
  - of instruments for the disputation, as bee
    - Logike.
    - Rhetorike
  - preparation and furniture, things requisite for the same, it must be noted therefore.
    1. What may confirme or confute the position.
    2. What sect of philosophy the adversary followeth.
    3. They must haue in memory the generall heades of artes, which are commonly vsed in disputations.
  - Cōflict and assault: they must neither
    - Wrangle about trifling wordes,
    - Nor make long and impertinent excursion and vagaries.
    - Nor seeke starting holes.
    - Nor bring in any such thing as may rather make against them, then with them.
    - Nor seeke to supplant or circumuent one another iniuriously.
    - Nor ouerweene themselues, or be obstinate and singuler in conceipt.
    - Nor fal to threatning and railing with vndecent tearmes.
- Proper to either of them. CC.

CC. The proper duties of the

Oppo-nent be

1. To haue his weapons in a readines, that is, to haue his obiections framed artificially with ſyllogiſticall diſpoſition.

2. Not to caſt his argumentes confuſedly on a heape, but to vſe them diſtinctly, one after another.

3. To haue Proſyllogiſmes in a readynes, for the confirmation of ſuch parts of his ſyllogiſmes, as may by likelyhood, be denied.

4. To bring in nothing which hath not ſome probabilitie or ſhew of truth in it.

5. Sometimes to deale directly & openly: ſometimes couertly, and by bringing his aduerſary to an abſurditie or impoſſibilitie.

6. Neuer to choppe in impertinent matters, which make nothing at all to the matter in controuerſie.

Defen-dent be

1. In choiſe of his poſition, that it be not

- Repugnant to ſence.
- Contrary to equity & honeſty.
- Too hard and difficult.

2. Both in

- Repetitions of the obiections made, & that either by the ſelfe-ſame words, or with the ſelfe ſame ſence, in the like order as they were propounded: with a kind of curteous preface: that both himſelfe may haue ſome meane-ſpace of conceauing a ſolution, and the auditors better vnderſtand what was obiected.
- And alſo in aunſwering of the ſame.

DD. The obiectiõs be aunſwered.

either

By ſkorning, and reiecting, if abſurd fooleries be obiected, or ſuch as no man vnderſtandeth.

By graunting and confeſſing, when ſuch thinges bee brought in, as make nothing againſt the poſition.

By affirming or denying, when any interrogation is made: or els by aſking what he meaneth by his interrogation, if it be ambiguous and ſophiſticall.

Or by direct ſolution, & that either perfect, when the very cauſe is ſhewed, why the concluſion is not ſufficient, and it is

1. by denying either of

The premiſſes and proſyllogiſms when they be falſe.

Or the conſecution & conſequence, when the fault is in the forme of concluſion: for the concluſion it ſelfe muſt neuer be denied.

2. either

by diſtinguiſhing when either

The queſtions and interrogatiõs be captious and doubtfull.

Or the premiſſes bee true not abſolutly, but in part. And here fryuolous diſtinctions muſt be auoyded.

Or conditionall graunting, as I graunt, if you ſo vnderſtand it. Sometimes the defendent doubteth of the truth of ſome one of the premiſſes, and doth therfore leaue it of purpoſe to aunſwere to the other that is more plaine. Thus, Let the Maior paſſe for a whyle, I now aunſwere to the minor.

Imperfect by bringing in ſome inſtance, that is by taking a particular exception to a generall propoſition.

- A A. so much of ỹ affections of this logicall exercise ỹ specials now follow, which bee
  - Analysis, in vndoing & examining that w'ich is already made, & is
    - either belonging to Invention: as
      - to search and inuent the question it selfe.
      - to picke out the arguments and proofes.
      - do refer them euery one to their seueral heads, & there to inquire of their sufficiency as whether ỹ be vsed for a Cause which is no cause, &c.
    - or to Disposition & that either
      - Axiomaticall, where all the axiomes must be also brought to their heads, and their truth or falsnes diligently examined.
      - or Dianoeticall which is either
        - Syllogisticall, for the examination and triall of conseqution, what followeth, or not followeth.
        - Methodicall, for proofe of order and Methodicall handling of the matter discoursed vpon.
  - Genesis, in making or framig of any thing by our owne industrie, & that either by
    - way of imitation and that either
      - of the whole worke
      - or of some part
      - either of these is
        - in wordes, called Translation.
        - in things called properly imitatiõ. wee must Imitate
          - neyther all authors, but the best of all:
          - nor all things but the best, & that freely, not seruilely, as bindyng our iudgemẽt to othermens fancie.
    - Or by proper Invention, where we must
      - First peruse euery place of Logicall inuention for the inuenting of proofes and arguments.
      - then dispose them artificially both by iudgmẽt.
        - Axiomaticall:
        - and Dianoeticall & that both
          - Syllogisticall;
          - & Methodicall.

The tenth Chapter.

Of a ſimple ſyllogiſme.

A Syllogiſme is eyther ſimple or compound. The ſimple is that, wherein the later part of the queſtion is diſpoſed in the propoſition, the former part in the aſſumption, and is affirmatiue when all the partes be affirmed: Negatiue, when the concluſion with the propoſition, or the aſſumption is denied. Generall when the propoſition and aſſumption be generall; Speciall, when one of them onely is generall: Proper, when both of them are proper or ſinguler.

The eleuenth Chapter.

Of the contracted ſyllogiſme.

There be two kindes of ſimple ſyllogiſmes. The firſt when of the former argument in the propoſition either affirmed or denied, but in the aſſumption affirmed, the concluſion is ſpeciall.

Affirmatiue generall.

Da- Conſtancy is a vertue.
rap- Conſtancy is confidency,
ti. Therefore ſome confidency is a vertue.

Neg. generall.

Fe- Raſhneſſe is no vertue,
lap- Raſhneſſe is confidency:
ton. Some confidency is no vertue.

Affir. ſpeciall.

Di- Some wiſe man is rich,
ſa- Euery wiſe man is prayſe worthy,
mis. Some prayſe worthy man is rich.

Da- A wiſe man is prayſe worthie,
ti- Some wiſeman is poore,
ſi. Some poore man is prayſe worthie.

Neg.

Neg. ſpeciall.

Bocardo. Some fole is not fortunate,
Euery fole is contemned,
Some contemptible man is not fortunate.

Ferison. Foles bee not happy.
Some foles bee fortunate,
Some fortunate men bee not happy.

Affir. proper.

Socrates is a philoſopher,
Socrates is a man,
Some man is a philoſopher.

Neg. proper.

Therſites is no philoſopher,
Therſites is a man,
Some man is no philoſopher.

But the clearenes of reaſon and iudgement requireth no ſuch diſpoſition, but is content with a more contracted kinde of argumentation. This contraction is, when the argument inuented to a particular queſtion, is put for an example, in ſuch ſort, that it go before eyther part, and bee affirmed in the aſſumption, thus:

Some confidence is vertue, as Conſtancie:
Some confidence is not vertue, as Raſhnes.

For heere the argument inuented commeth before both the partes of the queſtion, as though it were expreſſed thus:

That conſtancie is a vertue, and confidencie a vertue,
Therefore ſome confidencie is a vertue. And,
Raſhnes to bee no vertue, yet a kind of confidency,
Therefore ſome confidency to bee no vertue.

And after this manner, Vſe, the mayſter of ſyllogiſticall iudgement, doth alwaies contract it, and neuer otherwiſe expreſſe it. So in that example.

Aſcun Huſbandman tua ſa file, come Saunders; which, if you expreſſe it, will bee thus:

Saunders poyſoned his daughter,
Saunders was an huſbandman,
Therefore ſome huſbandman poyſoned his daughter.

Annotations.

This chapter conteyneth the third figure of Ariſtotle.

In all thoſe artificiall wordes, Darapti, Felapton, &c. and others of the ſame kinde, there bee certeine ſignificant letters to be obſerued, as, A, ſignifieth a generall affirmatiue ariome: E, a generall negatiue: I, a ſpeciall affirmatiue: O, a ſpeciall negatiue: beſides ſome conſonantes which bee notes of Reduction, which I little eſteeme of.

The olde verſes bee thus,

Aſſerit, A: negat, E: ſunt vniuerſaliter ambæ:
Aſſerit, I: negat, O: ſunt particulariter ambæ.

Valla reiecteth this contracted ſyllogiſme, ſo doth Scribonius, ſith, as they thinke, there is no example hereof to bee found: and by Scribonius, there is no new ſyllogiſtical diſpoſition heere, but onely an argument from the ſpeciall. But Lazarus Schonerus, adducit hęc exempla. Primum eſt in *Miloniana*. Negant intueri lucem fas eſſe ei, qui à ſe hominem occiſum fateatur. In qua tandem vrbe hoc homines ſtultiſsimi diſputant? Nempè in ea quæ primùm iudicium de capite vidit, *M. Horatii* fortiſsimi viri, qui nondum libera ciuitate, tamen populi Romani comitijs liberatus eſt, cùm ſua manu ſororem eſſe interfectam fateretur, ſyllogiſmus hic eſt,

M. Horatius populi comitijs abſolutus eſt,
M. Horatius confeſſus eſt ſe ſua manu cędem feciſſe,
Ergò aliquis à ſe hominem occiſum faſſus, eſt abſolutus.

Item in eadem. Quod ſi duodecim tabulæ nocturnum furem quoquo modo, diurnum autem, ſi ſe telo defenderit, interfici impunè voluêrunt, quis eſt, qui quoquo modo quis interfectus ſit, puniendum putet, cum videat aliquando gladium ad occidendum hominem ab ipſis porrigi legibus?

Syllogiſmus hic eſt.

Furem nocturnum interficere licet,
Furem nocturnum interficere, eſt hominem occidere,
Ergò hominem occidere aliquando licet.

Huius generis eſt illud,

Riuos deducere eſt licitum diebus feſtis,
Riuos deducere eſt opus ruſticum,
Quędam igitur opera ruſtica ſunt licita feſtis diebus.

Virgilius

Virgilius sic iudicat, 1. *Georgic.* sed pro argumento exemplum sextuplex, subijcit particulari quęstioni.

Quippè etiam festis quædam exercere diebus
Fas & iura sinunt: riuos deducere, nulla
Relligio vetuit, segeti prætendere sæpem,
Insidias auibus moliri, incendere vepres,
Balantumq; gregem fluuio mersare salubri.
Sępè oleo tardi costas agitator aselli,
Vilibus aut onerat pomis, lapidemq; reuertens
Incusum, aut atræ massam picis vrbe reportat.

Exempla specialia suo generi particulariter sic interdum in artium pręceptis accommodantur, quale est illud de similitudine, lib. 1. dialecticæ *Rameæ*, cap. 20. aliquando nota nulla est, *Virg. Aeg.* 2. O formose puer &c. Syllogismus hic est.

In hoc exemplo nota est nulla.
Est autem similitudinis:
Ergò aliquando similitudinis nota est nulla.

Sic in *Rami* Arithmetica, lib. 1. cap. 1. Numerus potest esse minimus, vt vnitas, syllogismus hic est.

Vnitas est res minima.
Vnitas est numerus:
Aliquis igitur numerus est minimus &c.

Elenchs.

Among all these syllogismes, there is not any one good, where the assumption is negatiue.

The twelfth Chapter.

The explicate Syllogisme.

IN a Syllogisme simple of the seconde kinde the proposition must bée alwayes generall or proper: the conclusion negatiue, if either the proposition or assumption bée negatiue.

There bée two kindes of them: The first wherein the argument inuented doth follow both in the proposition & assumption, and must bée denyed in one of them.

The first generall; Piers in Pay.

Cæ- He that plaieth while his flocke is vnfed, can giue no accompt to great God Pan,

Sa- A good ſhepheard can geue accompt to great God Pan.

Re: Therefore a good ſhepheard playeth not while his flocke is vnfed.

Maiſter Plowden Fol. 213. b.

Ce- Nul ſecret verdit del iurors fait le plaintif nonſue,

Sa- Cheſcun verdit de droit bien rendue, fait le plaintife nonſue.

Re. Ergò Nul verdit bien rendue, eſt ſecrete.

The ſecond generall in May.

Ca- The hyreling letteth his ſheepe runne at random:

Mes- The good ſhepheard letteth not his ſheepe runne at random, Therefore

Tres. The good ſhepheard is not a hyreling.

Maiſter Plowden: Fol. 5.

Ca- Cheſcun bone agrément couyent eſſe perfect,

Mes. Nul incerteine agrément eſt perfect:

Tres. Ergo nul incerteine agrément eſt bone agrément.

The firſt ſpeciall in Iuly.

Fes- A good ſhepheard is not idle:

Ti- Paris is idle, therefore,

no. Paris is not a good ſhepheard:

Maiſter Plowden: Fol. 28. b.

Fes- Nul bone remaynder poet cõmencer ſur conditiõ:

Ti. Ceſt remaynder fait per le prior de bath a William Beiuſhin eſt limite de commencer ſur condition, ſ. ſi ipſe habitaret, & reſidens eſſet &c. *Ergo*

No- Ceſt remaynder n'eſt bone remaynder.

The ſecond Speciall.

Ba- He that ſitteth ſafely ſitteth below:

Ro- Algryn did not ſit below, Therefore

Co. Algryn ſate not ſafely.

Maiſter Plowden: Fol. 34. a.

Ba- Cheſcune bone condition eſt compulſiue,

Ro- Ceſt limitation en William Beiushin, n'eſt compulſiue.

Co.

Co. Ergo ceſt limitation neſt bone condition.
The firſt proper.
Morrels brayne was not bruſed by an Egle,
Algrins brayne was bruſed by an Egle,
Therefore Algrin is not morrell.
Mayſter Plowden, Fol. 101. a.
Iohn vane Salisbury ne fue Olyuer ap Dauid auec malice prepence:
Richard Salisbury fue Olyuer ap Dauid auec malice prepence. Ergo,
Richard vane Salisbury n'eſt Iohn &c. vel,
N'eſt d'eſtre acquite, come, Iohn &c.
The ſecond proper.
Paris was prowd
Moſes was not prowd, Therefore
Moſes was not Paris.
Mayſter Plowden: Fol: eodem.
Richard Salisbury fuit murderer,
Iohn vane Salisbury ne fuit murderer Ergo,
Iohn n'eſt ſemblable al Richard &c.

Annotations.

NEgatiue if:] Here vpon the ſchoolemen giue out this rule. Concluſio ſequitur deteriorem partem. For a Negation is worſe then an affirmation, as wee haue heard already. But that which they put downe generally as incident to all ſyllogiſmes is heere artificially ſet downe in his proper place.

Others haue left out theſe two laſt kindes of ſyllogiſmes; but iniuriouſly: for they are as artificiall as the reſt, and oftentimes vſed to diſcerne ſingulers that ſeeme to be the ſame. Singularia, ſay they, non conſiderantur in arte &c. abſurdè. Nam tota Aſtrologia eſt de ſingularibus de ſole &c. tamen precepta ſunt catholica. Sic in foro, curia, roſtris, &c. omnia ſingularia. Sic accuſare ſolemus hunc, defendere illum, &c. Omnia ſingularia.

As before, the contracted ſyllogiſme was according to the diſpoſition of the third figure put downe by Ariſtotle, where

the Medium is the former part in eyther of the premiſſes: ſo this firſt kinde of the explicate ſyllogiſme is the ſame that Ariſtotle comprehendeth in his ſecond figure, where the Medium, or third argument is the later part in eyther premiſſe. Laſtly, the ſecond kind of explicate ſyllogiſmes, which followeth in the next chapter, is conteined in the firſt Ariſtotelicall figure, wherein the third argument is the former part in the propoſition, and the later part in the aſſumption: according to the verſe:

Sub, præ, prima: bis prę, ſecunda: tertia, bis ſub.

Annotations. Elenchs.

NO good ſyllogiſme can bée made in this kind, if eyther all the axiomes bée affirmatiue, or the propoſition bée ſpeciall, as,

That which vſeth reaſon is beſt,
The world is beſt,
Therefore the world vſeth reaſon.

For ſo (ſayth Cotta in the third booke of Cicero concerning the nature of Gods) a man may conclude, that becauſe nothing is better then the whole world, therefore the world can play on the Lute.

Yet I ſay not this, as though no truth could bée concluded by the like diſpoſition: for, true things are ſometimes concluded by ſophiſticall and deceiptfull diſpoſition, as that of Perſius in his fift ſatyre.

An quiſquam eſt alius liber, niſi ducere vitam
Cui licet, vt voluit? licet, vt volo, viuere: Non ſum
Liberior *Bruto*?

Hée is frée that liues as hée liſt,
I liue as I liſt, therefore I am frée.

But it is therefore noted as ſophiſticall, for that, of true thinges, by the ſelfe ſame diſpoſition, an vntrueth may bée concluded. As,

A man is a liuing creature,
A horſe is a liuing creature. Therefore,
A horſe is a man. Agayne,
Hée that affirmeth a man to bée a liuing creature, ſayth truely.

Hée

Hée that sayth, thou art an asse, affirmeth a man to bée a liuing creature. Therefore

Hée that sayth, thou art an asse, sayth truely.

Thus much for the first fallatian, when all the ariomes bée affirmatiue. The second followeth, when the propositiõ is speciall, as in that which was obiected against Diogenes.

Thou hast that which thou didst neuer loose,
But hornes thou didst neuer loose,
Therefore thou hast hornes.

For if you resolue it thus,

Hée hath hornes that neuer lost hornes,
Diogenes neuer lost hornes,
Therefore Diogenes hath hornes.

Then eyther the propositiõ will be false, if it bée generall, or the syllogisme will proue sophisticall, if it be speciall.

The proper duetie therefore of a syllogisme is, to lay downe a certaine, true, and infallible rule of reasoning in such sort, that the premisses once graunted, the conclusiõ must in any case follow, and therefore this maner of reasoning, as all such like, is left out, as not artificiall, constant, and immutable; but, doubtfull, vncertaine, and deceiptfull. For, although sometimes thereby a trueth may bée concluded, yet séeing that it also for the most part causeth error, it is not admitted as a law syllogisticall.

The 13. Chapter.

Of the second kinde.

IN this second kinde, the argument goeth before in the propositiõ, and followeth affirmatiuely in the assumption.

The generall affirmatiue.

Bar- That which bringeth to good, is good.
Ba- Death bringeth to good, Therefore
Ra. Death is good.

Colyn in Nouember.

Vnwise and wretched men to weete what's good or ill,

Wee

Wee deeme of death as doome of ill deſert:
But knew wee fooles what it brings vs vntill,
Dye would wee daily once it to expert.
Faire fields and pleaſant layes there beene,
The fields ay freſh, the graſſe ay greene.
ô happy hearſe:
Make haſt ye ſhepheards thither to reuert,
ô ioyfull verſe.

Maiſter Plowden Fol. 315. a.

Bar- Les choſes pluis excellents del terre perteignont al roy,
Ba- Ore eſt le choſe plus excellent del terre:
Ra. Ergò ore perteigne al roy.
The generall negatiue.
Ce- Men muſt not bée bound to more miſery then men can beare,
La- Shepheards bée men,
Rent Therefore ſhepheards muſt not bée bound to more miſery then &c.

Hobbinoll in September.

Ah *Diggon*, thylke ſame rule were too ſtrayte,
All the colde ſeaſon to watch and wayte,
Wee bene of fleſh, men as others be,
Why ſhould wee be bound to ſuch miſery.
What euer thing lacketh changeable reſt,
Mought needes decay when it is at beſt.

Maiſter Plowden Fol. 332. b.

Ce- Ceo que vient al roy en reſpect que il eſt poſſeſſor del corone, ne paſſera per graunt del terre,
La- Ore vient al roy come poſſeſſor del corone:
Rent Ergo, ore ne paſſera per grant del ſoile.
The ſpeciall affirmatiue.
Da- Hée that hath loued, ought to pitie louers,
Ri- Pan hath loued,
j. Therefore Pan ought to pitie louers.

Colyn in January.

And *Pan* thou ſhepheards god, that once didſt loue,
Pitie the paines that thou thy ſelfe didſt proue.

Da-

Maiſter Plowden Fol. 64. a.

Da- Ceſtuy que prist obligations come vicount pour leſſer home a mainprise, fayt ceo colore officij,

Ri- Lewis Dyue prist obligatiõ de Iohn Maningham &c.

j. Ergo Lewis Dyue fayt ceo colore officij.

The ſpeciall negatiue.

Fe- The pipe which pleaſeth where it ſhould not, ſhall not bee kept,

Ri- Colyns pipe pleaſeth where it ſhould not,

O. Therefore Colyns pipe ſhall not bee kept.

Wherefore, my pipe, although rude *Pan* thou pleaſe,
Yet for thou pleaſeſt not where moſt I would,
And thou vnlucky muſe that wontſt to eaſe
My muſing minde, yet canſt not when thou ſhould,
Both pipe and muſe, ſhall ſore the while aby,
So broke his oaten pipe, and downe did lye.

Maiſter Plowden Fol. 64. b.

Fe- Nul obligation fait pur ayder le vicount pur vn tort, eſt loyall,

Ri- Ceſt obligation de Maningham al Dyue eſt fait pur ayder le vicount pur vn tort,

O. Ergo ceſt obligation n'eſt loyall.

The proper affirmatiue in Iuly.

The great God Pan ſaued his flock with bloody ſweat,
Chriſt is the great God Pan,
Therefore Chriſt ſaued his flocke with bloody ſweate.
O bleſſed ſheepe, ô ſhepheard great,
that bought his flocke ſo deare,
And them did ſaue with bloody ſweat
from wolues that would them teare.

Maiſter Plowden, Fol. 401. a.

Richard Cole tue Elizabeth Penbrooke,

Ceſtuy que done le coupe le 12. iour del February, eſt Richard Cole,

Ergo ceſtuy que done le coupe, tue Elizabeth Penbroke.

The proper negatiue, in Aprill.

Elyſa cannot bee blemiſht with any mortall blot,
Shee that ſits vpon the grally greene, is Elyſa.

Therfore ſhe that ſits vpon the grally gréne cannot bée blemiſht with any mortall blot.

Maiſter Plowden Fol. 475. a.

Alexander Archer ne fuit culpable del mort del Elyanor Saunders,

Ceſtuy que counſel Iohn Saunders de tuer ſa feme, fuit Alexander Archer,

Ergò ceſtuy que counſel &c. ne fuit culpable del mort del Elyanor Saunders.

Annotations.

BArbara, is fitteſt for a general confirmation; Celarent, for a generall confutation; Darij, ſerueth to proue in parte, Ferio, to diſproue in parte, according to thoſe two olde ſchoole verſes which I rehearſed before.

As for that kinde of demonſtration of ſyllogiſmes which is done by Reduction, it is more troubleſome than néedfull. For, ſyllogiſmes, if they bée once artificially made, néede no further demonſtration, as béeing of themſelues ſufficiently confirmed by their ſeuerall definitions, diuiſions, examples, and explications.

Elenchs.

The ſyllogiſme is héere nought, if eyther the propoſition bée ſpeciall, or the aſſumption negatiue, as,

Aliquod animal eſt equus:
Omnis homo eſt animal:
Homo igitur eſt equus. And,

Omnis homo eſt animal:
Nullus equus eſt homo
Nullus igitur equus eſt animal.

The 14. Chapter.

Of the firſt kinde of a connexiue Syllogiſme.

THus much for the ſimple ſyllogiſme. The compound ſyllogiſme is that wherein the whole queſtion maketh the one part of the propoſition affirmed and compounded: And the argument inuen-

ted

ted, maketh the other part of the propoſition, or is conteyned in it.

To deny or remoue any part in a compound ſyllogiſme is to ſet downe the ſpeciall contradiction thereof.

The compound ſyllogiſme is eyther conexiue, or diſiunctiue.

The conexiue is that whoſe propoſition is conexiue, and is made after two ſortes.

Firſt when the former part of the propoſition maketh the aſſumption, the later part the concluſion. As in this,

And if that my grandſire mee ſayd bee true,
Syeker I am very ſib to you.
If my grandſire tolde mée truth, I am ſib to you.
But my grandſire tolde mée truth,
Therefore I am ſib to you.

Maiſter Plowden Fol. 76. a.

Si le brieue eſt fait en le noſme du roy, et ſeale oue ſon ſeale, adonques eſt le fait le roy.
Mes icy, ceo brieue, eſt fayt en le noſme &c.
Ergò eſt le fait del roy.

Héere oftentimes the former parte of the propoſition maketh not the aſſumption, but that which is greater, and of more force to conclude then it is, as,

If there were none but other beaſts thine enemies, yet oughteſt thou to take héede,
But now the Fox alſo, the maiſter of colluſion, is thine enemy,
Therefore much more oughteſt thou to take héede.

Piers bleth this in May, in the gates ſpæch to her little one.

Kiddy, quoth ſhe, thou kenſt the great care
I haue of thy wealth and thy welfare,
Which many wilde beaſtes liggen in wayte
For to intrap in thy tender ſtate:
But moſt, the Fox, maiſter of colluſion,
For he has vowed thy laſt confuſion.
For thy, my kiddy, be ruled by mee,
And neuer giue truſt to his trechery.

And if he chaunce come, when I am abroade,
Sperr the yate faſt, for feare of fraude:
Ne for all his worſt, nor for his beſt,
Open the dore at his requeſt,

Maiſter Plowden: Fol. 11. a.

Si nul forſques vn comen perſon eſt grauntée, ou donée, vncore les parolles ambiguous ſerra priſe pluis beneficialment a luy.

Mes icy, le roy meſme eſt grauntée ou donée,

Ergo, a multo fortiore, les parolles doubtfull ſerra pluis beneficiall a le roy.

The ſame kinde of ſyllogiſme or reaſoning is framed by a coniunction of time, with the ſame force, which this connexiue hath, As

When night drawes on, it's time to goe homeward,
But now night drawes on, Therefore
it's now time to get homeward.

Willy in March.

But ſee, the Welkin thicks apace,
And ſtouping *Phebus* ſteepes his face,
It's time to haſte vs homeward.

Maiſter Plowden: Fol. 263. a.

Quant ſir Iames Hales mette luymeſme en le eawe, donques il forfetoit ſes biens.

Mes il mette luymeſme en le eawe, quant il fuit en vie,

Ergò, quant il eſtoit en vie, adonques il forfetoit ſes biens.

Annotations.

THe ſpeciall contradiction:] when that which was affirmed in generall, is denyed in ſpeciall: or contrarily, affirmed, when it was denyed: and when the ſame thing in ſpeciall, is both affirmed before and denyed after.

[Connexiue or diſiunctiue:] So then of an axiome copulatiue or diſcretiue, wee vnderſtand, that no ſeuerall and peculier diſpoſition ariſeth.

Vide 10. E. 4. Lyttleton contra Danby: ſi le propertie des biens le mort ſoit en alcun, tunc ſerra in le teſtator, vel

vel in les executors: mes eſt en aſcun, ergò in l'un ou l'auter: eſt connexiue: Then agayne:

Le propertie eſt in le teſtator, ou in les executors,
Mes nemy in le teſtator,
Ergò in les executors: ceſt vn diſiunctiue.

In compoſito ſyllogiſmo, aſſumptio, præter argumentum, nihil aſſumit quæſtionis; quod tamen ſit ſemper in ſimplici ſyllogiſmo.

If not the whole queſtion, but onely the latter part of it bée conteyned together with the argument inuented, in the propoſition, then the ſyllogiſme is ſimple, although the propoſition bée compound. For as I ſayd elſwhere, whenſoeuer the diſpoſition is ſimple, there the ſyllogiſme is ſimple, though the partes bée compound. So that in Catullus is a ſimple ſyllogiſme. 1. Gen.

Si quicquam cupidoq̃; optantiq̃; obtigit vnquam &
inſperanti, hoc eſt gratum animo proprie.
Quare hoc eſt gratum nobis, quoq̃; charius auro,
quod te reſtituis, *Lesbia*, mi cupido.
Reſtituis cupido, atq̃; inſperanti ipſa refers te
nobis: ô lucem candidiore nota.
Quis me vno viuit fœlicior? aut magis hac quid
optandum vita dicere quis poterit?

Ramus format ſic:

Quod optandum redierit, gratum eſt,
Lesbia Catullo optata redijt:
Optata igitur eſt.

So in 2. Gen.

Si quicquam ſit homo, tum erit animal,
Lapis non eſt animal,
Lapis ergo non eſt homo.

Nay, which is more, the ſyllogiſme may bée ſimple, though all the partes bée conditionall and compound, thus:

Si ſit honeſtum, erit laudabile,
Si ſit iuſtum, erit honeſtum,
Ergò ſi ſit iuſtum, erit laudabile. As Ramus more at large putteth downe in his French Logike.

Blenchs.

There be two other connexiue ſyllogiſmes different from theſe alreadye rehearſed: but becauſe they are not certayne, conſtant, and alwayes infallible: therefore they be not put downe in the text, as precepts of Art: yet are they diligently to be obſerued, for they are often in autors: eſpecially the firſt, which is very vſuall: but the ſecond is not ſo common.

The firſt kinde is that which taketh away the former part, that it may alſo take away the later. Terence in Adelphis.

Dem: Cæterum.

Placet tibi factum Mitio? Mi: Non, ſi queam mutare: nunc cum non queo, æquo animo fero.

Cicero for *Muræna*.

Etenim ſi largitionem factam eſſe conſiterer, idque rectè eſſe factum defenderem, facerem improbè, etiamſi alius legem tuliſſet. Cum verò nihil commiſſum eſſe contra legem defendam, quid eſt quod meam defenſionem latio legis impediat?

Ouid in his ſecond booke of ſorrowfull ſongs.

Si, quoties peccant homines, ſua fulmina mittat
Iupiter, exiguo tempore inermis erit:
Nunc vbi detonuit, ſtrepituq; exterruit orbem,
Purum diſcuſsis aëra reddit aquis.
Iure igitur, genitorq; deûm, rectorq; vocatur:
Iure, capax mundus nil *Ioue* maius habet.

Cæſar in *Saluſt*. Si digna pœna pro factis eorum reperitur, nouum conſilium approbo: ſin magnitudo ſceleris omnium ingenia exuperat, his vtendum cenſeo, quæ legibus comparata ſunt.

Colyn in June hath the like.

But if in mee ſome little drops would flow
Of that the ſpring was in his learned head,
I ſoone would learne theſe woods to wayle my woe,
And teach the trees their trickling teares to ſhed.
Then ſhould my plaints, cauſd of diſcurteſie,
As meſſengers of this my plainfull plite,
Flye to my loue where euer that ſhe bee,

And

And pierce her hart with poynt of worthy wite,
As ſhe deſerues that wrought ſo deadly ſpite.
And thou *Menalcas* that by trechery
Didſt vnderfong my laſſe to wexe ſo light,
Shouldſt well be knowne for ſuch thy villany.

But ſince I am not as I wiſh I were,
Ye gentle ſhepheards which your flocks doo feede,
Whether on hill, or dales, or otherwhere,
Beare witneſſe all of this ſo wicked deede,
And tell the laſſe whoſe flower is waxe a weede,
And fautles fayth is turnd to faythles pheare,
That ſhe the trueſt ſhepheards hart made bleede
That liues on earth, and loued her moſt deare.

For, although all the examples of this kinde bee not falſe and deceiptfull, but good and ſufficient, as in theſe now rehearſed; yet, falſe may bee concluded by the ſelfe ſame diſpoſition, as

Si arbor equus eſt, viueret:
Sed arbor equus non eſt:
Non igitur arbor viuit.

In which example, the propoſition and aſſumption are both true, yet the concluſion is falſe: but it is the office of a ſyllogiſme, as hath beene ſayde, to lay downe a neceſſary, perpetuall, and immutable rule, by the which, vppon the premiſſes once graunted, the conſequence muſt bee neceſſary.

The ſecond, which is not ſo vſuall, is that which taketh the latter parte, that it may alſo haue the former concluded, as in that of Ouide in the fourth booke of his tranſformations.

Quem ſi cura deûm tam certa vindicat ira,
Ipſe precor ſerpens in longam porrigar aluum:
Dixit; et, vt ſerpens, in longam tenditur aluum.

The argumentation is thus:

Si dij ſtatuêrunt vindicare *Cadmum*, fiat ſerpens:
Sed fit ſerpens:
Ergo dij ſtatuêrunt vindicare *Cadmum*.

Take

Take an other example, and you shall see that by the same rule you may conclude that which is starke false, As

Si arbor equus esset, viueret:
Sed viuit arbor:
Ergo, arbor equus est.

For here the forerunning ariomes being both true, the conclusion for all that, is manifestly false. This is called of Aristotle an Elench of the consequent: yet in trueth it is no Elench of argument, but of argumentation: when wee are perswaded foolishly that the consequution is reciprocall, and that the putting downe of the one bringeth in of necessitie the other, and contrarily, As,

Si cygnus est, albus est color. This followeth.
Sed albus est color,
Cygnus igitur est. } It followeth not.

So, that of Melissus.

Si quid factum est, habet principium,
Ergo si principium habet, etiam factum est

The consequution, sayth Aristotle, is not reciprocall.

Ramus in the 20. of his Logicall animaduersions, the first Chapter sayth thus.

Theophrastus autem & *Eudemus* docuerunt in connexo, Antecedentis negati, & consequentis affirmati tolli posse antecedens, vt tollatur consequens: & consequens retineri, vt retineatur antecedens. In quo genere, etsi rarus error est, est tamen aliquando: Vt,

Si nullum animal est irrationale, omnis homo est rationalis,
Sed aliquod animal est irrationale:
Ergo aliquis homo non est rationalis.

Item,

Sed omnis homo est rationalis,
Ergo nullum animal est irrationale.

Cum maius aliquid concludit ur, videntur esse tres termini, sed reuera, res illa maior contine t rem ante propositam in se, & quiddam amplius: Itaq; tres tantum termini sunt.

The

The 15. Chapter.

Of the ſecond kinde of a connexiue ſyllogiſme.

THe ſecond conneriue is, wherin the later part of the propoſition is remoued in the aſſumption, that the former alſo may bee remoued in the concluſion, As

If thou hadſt bene ruled by mée, thou ſhouldeſt haue left that vnlucky ſoyle.

But thou didſt not leaue that vnluckie ſoyle:

Therefore thou waſt not ruled by mée.

Mayſter Plowden: 281: a.

Si apres le mort le teſtator, tambien l'ordinary, come l'executor aueroit le propertie del biens le teſtator, adonques ſerront deux properties d'une choſe.

Mes deux properties ne ſont d'une choſe,

Ergò apres le mort le teſtator &c.

The 16. Chapter.

Of a diſiunctiue ſyllogiſme.

THe diſiunctiue is that whoſe propoſition is diſiunctiue: and is framed after two ſortes alſo.

The firſt doth remoue one part of the propoſition in the aſſumption, and inferreth the other in the concluſion.

Or Diggon her is, or I miſſay,

But I do not miſſay,

Therefore her is Diggon.

Mayſter Plowden Fol. 295. b.

Du Iohn Carrell ayel al enfant de part ſon pere, ou Eliſabeth Cuddington ayels al enfant de part ſa mere, doit eſtre gardeine in ſocage al dit enfant en manor de Suytterton:

Mes nemy Eliſabeth Cuddington:

Ergo Iohn Carrell.

The ſecond is that which maketh the aſſumption of one

parte of the proposition beeing affirmed, and remoueth the other in the conclusion, as,

Or Diggon her is, or I misſay,
But her is Diggon,
Therefore I doo not misſay.

Maiſter Plowden, Ibidem.

Ou Iohn &c. ou Eliſabeth &c.
Mes Eliſabeth doit eſte gardeine &c.
Ergò nemy Iohn &c.

The ſame ſyllogiſme is alſo made of a copulatiue propoſition beeing denyed, becauſe it hath the ſame force with a propoſition diſiunctiue beeing affirmed, as,

Shepheards cannot liue in pleaſure and paine at once:
But they muſt liue in pleaſure:
Therefore not in paine.

Maiſter Plowden Fol. 281. a.

Le executor, et le ordinary ne poyent auer le profite del byens le teſtator enſemble, apres le mort le teſtator:
Mes le executor le auera:
Ergo nemy le ordinary.

Annotations. Elenchs.

FOr the firſt, if the aſſumption conteine not a ſpeciall, but a generall contradiction, the ſyllogiſme will bee ſophiſticall.

For the ſecond, if the propoſition haue not all his partes affirmatiue, the ſyllogiſme is ſophiſticall.

The propoſition in a ſyllogiſme is commonly fet from ſome grounds of liberall arts, as Logike, Rhetorike, Ethike, Phyſike, &c.

It is not a ſyllogiſme, vnleſſe it conclude and iudge neceſſarily: yea, notwithſtanding, the premiſſes of themſelues bee falſe.

Syllogiſme is onely proper and peculiar to man; whereof, no beaſt doth in any reſpect participate.

Strict ſyllogiſmes bee neuer lightly vſed among authors, but eyther contracted or amplified, or els inuerted, as I ſayde before. The quicknes of mans wit is ſuch, that it conceaueth the

the whole ſometimes without any propoſition, another while without any aſſumption, and now and then it preuenteth and foretaketh the concluſion.

Ramus in his French Logike reduceth all the Oration which Tully made in defence of Milo to theſe three lines, making one ſimple ſyllogiſme.

Le guetteur et eſpieur meſchant eſt iuſtement occis:
Car l'autorité du peuple, et des iudgements du Senate, de *Marie*, de la ley naturelle et humaine le teſmoignent: et n'y a aucune ley contraire ny du Senate, ny de *Pompée*. Tel eſt le proſyllogiſme de la propoſition.

Or Clode eſt guetteur et eſpieur meſchant:
Car il a eſpié *Milon*, eſmeu d'vtilité, de haine, de mauuaiſes meurs, d'eſperance d'impunité: Ce qui a eſté entendue per ſes parolles et fayts. Et qu'il ayt eſté meſchant, les faicts contre hommes et les dieus, le demonſtrent. Tel eſt le proſyllogiſme de l'aſſumption, dont eſt conclu.

Purtant Clode eſt iuſtement occis.

This is the brieſe ſumme of all that long oration.

The 17. Chapter.

Of Methode.

THus much for a Syllogiſme. Now followeth methode.

Methode is a diſpoſition of diuers coherent ariomes, whereby the moſt generall is euer firſt placed: and of diuers ſyllogiſmes whereby the beſt and principall is firſt put downe, in ſuch ſort that thereby all of them may bee the more eaſily perceaued and better remembred. I call that the principall ſyllogiſme which prooueth and concludeth the principall queſtion; and that the principall queſtion which was firſt propounded to bee concluded.

So then, as an ariome determineth truth and vntruth, and ſyllogiſme conſequence or inconſequence, in like maner is methode the onely iudge of order or confuſion.

This methode is then obſerued, when as that which is

best knowne, is placed in the first rome, and those which bée lesse knowne of themselues, dw follow in o;der, as euery one is better knowne then an other.

Therefo;e this methode descendeth alwayes from the generall to the specials, euen to the most singular thing, which cannot bée diuided into any mo;e parts.

The most generall definition is first to bée placed, and distribution next, which, if it bée manyfold; partition into the integrall parts must bée set downe first, and the generall p;opricties of the thing so parted; then diuision of the specials must follow. And these partes and specials are in the same o;der to bée handled, as they were diuided.

If the discourse bée long, it must bée knit together, with transitions, telling b;iefly what is done, and what is to bée done, so; confirmation of memo;y, and recreation of the reader.

This methode onely, and none other is to bée obserued, so often as wée teach any art o; science, o; take vpon vs to intreate perfectly of any generall matter.

Hisio;iographers, Poets, O;ato;s, and such other speakers o; w;iters, are not bound so strictly to obserue the perfection of the first methode: but may, according to their matter, meaning, purpose, time, place, persons, wisely obserue the best so; their intent, altering, hiding, adding, detracting, when and how they list. Poets sécke to please the multitude, a beast of many heades. Therefo;e Homer, maketh not an hisio;icall narration of the Troian warre, from the beginning to the ending thereof, but so mingleth truth with tales, and tempereth them both with a p;obable shew, and delightsome continuation, that neyther the middle dw séeme discrepant from the beginning, no; the ending from the middle.

And Virgil beginneth the Narration of Æneas his voiage from Sicile: making him declare the rest at supper in Carthage with Quéene Dido. Comicall poets also, albeit they very exactly diuide their Comedies into Acts and Scenes, yet so; the pleasure of the people, b;ing in euery thing in such o;der, as though it were by chaunce, hap, o; hazard, come so to passe,

O;ato;s

Orators, as referring all to perſwaſion and victory, omit orderly diſtributions; obſcure thinges purpoſely; amplifie; digreſſe; flatter; inſinuate; alter; chaunge; and turne all vpſide downe, placing the beſt arguments firſt and laſt: leauing the worſt, in the middle of their ſpæch altogether, the one to helpe the other; that with forcible thinges in the beginning, the auditors may bæ wonne; and with as good in the ending, haue their minde and memory wholy occupyed.

This is called the concealed or hidden methode: the methode of wit and diſcretion, for that it is rather ſæne in the prouident conceipt of him that writeth or ſpeaketh, then perceaued by any generall rule of art, or precept whatſoeuer. So it is a good policie, if thy cauſe bæ honeſt and good, to vſe ſuch Exordiums and beginnings, as may make the matter beſt knowne and vnderſtood plainly and ſimply: but, if not ſo good, as thou couldſt wiſh, then to paſſe away ſlily with a ſmoothing inſinuation.

In like manner, if thou bæ to ſpeake before thy enemies, and ſuch as thou feareſt, diſcretion muſt bæ vſed, in putting this generall note which I haue now deliuered, in particular practiſe. Socrates in this ſort cogged with the olde Græcian Sophiſters, making them ſay and vnſay, and therefore ſay this, that hæ was a wrangler, an inchaunter, a diſſembler, a deceiuer. In one word, it is not amiſſe, to imitate the cunning Surgeon, who hideth his knife, becauſe his patient ſhould not be diſcouraged. So let vs in this poynt ſhew our ſelues ſkilfull in art, that wæ may vſe art, without any ſuſpition of art.

Yet, notwithſtanding all this licence vpon ſuch neceſſary occaſion, graunted to theſe people pleaſing men, they muſt, aſmuch as they may, follow and expreſſe generally, the methode which I firſt put downe: and that ſomuch the rather, becauſe it is eaſie to bæ practiſed in ſome part; and vnto reaſon moſt agræable.

Annotations.

SOme thinke, the rule καθ' ὅλου πρῶτον, to belong to methode; but it is not ſo. For, axiomaticall iudgement conſidereth

the arioms alone, and seuerall by themselues; but Methode, the coherence of many distinct ariomes together. The rule καθ' ὅλου πρώτου doth simply and onely shew, what ariome is generall, and to bee taught generally; what speciall, and specially to bee put downe, because such onely be recipzocall: but it telleth not which of these ariomes must in ozder haue first oz second place, which onely is Methodicall.

μεθοδος, of μετα which signifieth, with; and οδος, which is a way. Foz this is the right and compendious way, in wziting oz speaking to bee obserued. The wozd therefoze is metaphozically applied to any ozderly pzocéding.

Methode then, as wee take it heere, is an ozdering of dyuers ariomes already inuen'ed: not a direction how to finde out ariomes. The inuenting of Artes came by obseruation of particulers; but the teaching and confozmation of them now inuented, beginneth at the vniuersall. Foz, it both geueth moze light then the speciall, and may be knowne without the speciall: but not the speciall without it: as a tree, in respect of a peare tree.

Of a little sparke commeth a great flame. Yet the sparke is not therefoze moze cleare then the flame: so although the knowledge of generals commeth by obseruation of particulers; yet these particulers giue not moze light then the generals.

Examples are alwayes lastly to bee put downe, foz that they are most speciall; and cannot bee diuided into any other specials; as beeing nothing els but the singuler obseruation of this and that pzoper and peculier thing.

Methode is like to Homers golden chayne, whereby thinges are sweetly vnited and knit so together, that if one Lynk fall of, the whole chayne is bzoken and dissolued. And Plato calleth it Vinculum artis &c.

As farre as man excelleth a bzute beast, by the iudgement syllogisticall; so farre doth one man surpasse an other by disposition methodica'l. As then the pzactise is harde, the pzaise most excellent, so the Elench in Methode, causing obscuritie, and tautologie, is most foule and detestable.

Homer is noted foz his peruersion of Methode, insomuch that

that Tully writing to Atticus, where hée purpoſed to anſwere the laſt queſtion firſt, ſaid hée would talke of the laſt queſtion firſt, ὕστερον πρῶτερον ἀμηχανίας.

As in the other parts of iudgement, ſo in this eſpecially, vſe, practiſe, and continuall exercíſe worketh all in all, hée that hath a generall ſight in Logike, hath but the ſhadowe. He that is acquainted with the particuler practiſe, is the onely true and perfit logician.

I will neuer call him a Muſitian that neuer ſang: a Carpenter that neuer builded houſe: a Souldier that neuer fought, notwithſtanding the generall ſpeculation of the firſt in Muſicke, of the ſecond in building, of the third in fighting: no more will I thinke him worthie of the title & name of a Logician, that neuer put his generall contemplation of logicall precepts in particuler practiſe. For, as it is not ynough to know what vertue is, vnleſſe you liue vertuouſly, and expreſſe your learning by your liuing, ſo it is but a fruitleſſe oſtentation to bragge of a generall conceipt, without continuance in ſpeciall and particuler exerciſe.

What precepts ſoeuer the common Rhetoricians put downe for ordering of Exordiums and framing and diſpoſing of the whole courſe of their ſpéeche fitly and according to cauſe, auditors, time, place, and ſuch like circumſtances; all thoſe I ſay, are altogether Logicall, not in any reſpect perteining to Rhetoricke, but as a Rhetor may bée directed by Logicall precepts of iudgement and diſpoſition.

[Coherent axiomes:] For otherwiſe a man may ſay heere, as Horace did of a Poeme patched lyke a beggers cloake, wherein no one peece is like another.

Humano capiti ceruicem pictor equinam
Iungere ſi velit, & varias inducere plumas,
Vndiq; collatis membris, vt turpiter atrum
Deſinat in piſcem mulier formoſa ſuperne;
Spectatum admiſſi riſum teneatis amici?
Credite, Piſones, iſti tabulæ fore librum
Perſimilem, cuius, velut ægri ſomnia, vanæ
Fingantur ſpecies, vt nec pes, nec caput vni
Reddatur formæ. And after,

Sed

Sed non vt placidis coeant immitia, non vt
Serpentes auibus geminentur, tigribus agnæ.

[Moſt generall:] **Le choſe generall ſerra touſiours miſe en demande ou pleynt deuant le choſe ſpeciall, et l'entier deuant ſes partes, Come terre eſt genre a pᵹ, paſture, bois, ꝛc. et ſerra miſe in pleint ou demaunde deuant eur.**

Iſſint bois eſt vn genre de terre ou touts maners de arbres creſcent, et puꝛceo ſerra miſe en demaunde deuant alnetum & ſalicetum, que ne ſont que eſpeces de bois. Theloall. lib. 8. cap. 20. Fol. 129.

Notiora ſunt, **ſaith** *Waſſerleider*, non quæ facilius percipiuntur, ſed quæ percepta & intellecta plurimum notitiæ & cognitionis afferunt, vt vniuerſalia, quæ pluribus inſunt & conueniunt. Sic, obſcuriora, non quæ difficilius percipiuntur, ſed quæ percepta & intellecta ſingula parum lucis & ſcientiæ prębent, vt ſingularia, & ſpecialiſsima, quæ etiam ſenſibus percipiuntur. **Hꝛeꝛeupon is the diſtinction of** notiora naturæ, **and** notiora nobis. **But this is confuted of others.**

[Syllogiſmus:] Nam eſt quędam methodus in ſyllogiſmis. Methodus inueniendæ artis dicta eſt in genere & ſpecie. Hîc agitur de methodo diſponendi.

[Definition firſt:] **foꝛ it giueth light to all that foloweth.**

[Partition firſt:] **foꝛ it is made of cauſes, whereas diuiſion is of effects.**

[Tranſitions:] Tranſitio inter figuras Rhetoricas à *Ciceꝛone* numeratur, cum ſit planè logica. Tranſitio reficit auditorem, certo ſingularum partiũ fine, non aliter quàm facientibus iter multùm detrahunt fatigationis notata inſcriptis lapidibus ſpatia: Nam & exhauſti laboris noſſe menſuram, voluptati eſt: & hortatio ad reliqua fortius exequenda, ſcire quantum ſuperſit: nihil enim longum videri neceſſe eſt, in quo, quid vltimum ſit, certum eſt. Tranſitio imperfecta eſt conuenientior, quando longa partis diſputatio non fuerit, vt memoriæ renouatione minimè ſit opus.

Crypſis methodi eſt in Elleipſi vel redundantia. Elleipſis eſt, non omnium amiſsio, ſed quarundam in methodo. Redundantia eſt Heterogenia vel Tautologia. In perfecta methodo docendus eſt auditor, in crypſei fallendus & mouendus. Sic enim

enim mutato auditoris ſtomacho, ſalubria fiunt venenata, & contra.

As an Enthymeme is a defect of a full ſyllogiſme, ſo Elleipſis is in methode; as a proſyllogiſme is ſuperfluous there, ſo digreſſions here: as the inuerſion of the premiſſes is in the one, ſo the intangled circumduction is in the other. Wherof, beſides Homers Iliades, and Virgils Æneis, the Ethiopicall hiſtory is a ſweet example.

Argumentum ſemper diſponitur, nunquam diſponit: Methodus ſemper diſponit, nunquã diſponitur, vt ſummũ genus & infima ſpecies: ſed enunciatũ & ſyllogiſmus ſunt vt ſubalterna. Nam enunciatum diſponit argumenta, diſponitur in ſyllogiſmo, ſyllogiſmus diſponit enũciata, diſponitur à methodo.

Vbi materia nulla eſt, ibi forma nulla eſſe poteſt, vt ſi pars Rhetorices imperfecta in pronunciatione docenda ſit, methodus perfecta non eſt deſideranda.

Socrates compareth the oration which Lyſias made of loue, to the foure verſes which were written on Mydas tombe, wherein the matter did ſo wiſely hang together, that the firſt might bee laſt, and laſt firſt without any daunger.

χαλκῆ παρθένος εἰμι &c.
Aenea virgo ſum, Midæ ſepulchro imponor,
Quamdiu & aqua fluet, & longæ arbores vireſcent,
Ipſius hîc manens lamentabili in tumulo,
Nuntio prętereuntibus, *Midas* quod hîc ſepultus eſt.

And like to Lyſias ſpæch or Mydas epitaph, be all our baldactum and vncoherent pamphlets, all our yeare-bookes and abridgements.

Imagine, ſayth Ramus, that all definitions, diuiſions, and rules of any art, as of Logike, were already inuented and allowed for true, and euery rule were written in a ſeuerall ſchrole, euery ſchrole being put into an earthen pitcher, as they vſe in lottaries, and there ſhuffled together: what part of Logike now muſt order theſe confuſed rules and ſcattered ſchroles. Not Inuention, for they bee found out already: not ariomaticall Iudgement, for they bee iudged and allowed as true, euery Axiome ſeuerally: nor Syllogiſticall; for nowe euery queſtion is aunſwered, all

controuerſies concerning theſe rules, bee diſcuſſed: onely methode remaineth, by the direction wherof, I will ſeeke in this pot for the definition of Logike, and will ſet it in the firſt place: then for the diuiſion thereof into Inuention and Diſpoſition, placing it in the ſecond roome. This done, I will take the definition of Inuention and put it in the third degree; and conſequently the definition and diuiſion of arguments, vntill all the firſt part of Logike bee thus put downe, by defining, diuiding, exemplifiyng, and binding together the ſeuerall tractates by conuenient tranſitions. Then will I in like manner proceede to Diſpoſition.

Methode and order is the chiefeſt helpe of memory: therfore ſith all methode is altogether Logicall: inſtructions for memory, if they belong to any art, muſt needes bee Logicall. Therefore, Sit puer, ſayth *Ramus*, qui querimoniam *Penelopes* apud *Ouidium* epiſtola prima de *Vlyſſis* abſentia poſt euerſam *Troiam* memoriæ commendare velit.

Sed mihi quid prodeſt veſtris diſiecta lacertis
Ilios, & murus, quod fuit antè, ſolum,
Si maneo qualis *Troia* durante manebam,
Virq; mihi dempto fine carendus abeſt?
Diruta ſunt alijs, vni mihi *Pergama* reſtant,
Incola captiuo quæ boue victor arat.
Iam ſeges eſt vbi *Troia* fuit, reſecandaq; falce,
Luxuriat *Phrygio* ſanguine pinguis humus.
Semiſepulta virûm curuis feriuntur aratris
Oſſa, ruinoſas occulit herba domos.
Victor abes, nec ſcire mihi quæ cauſa morandi,
Aut in quo lateas ferreus orbe, licet.
Quiſquis ad hęc vertit peregrinam littora puppim,
Ille mihi de te multa rogatus abit.
Quamq; tibi reddat, ſi te modò viderit vſquam,
Traditur huic digitis charta notata meis.
Nos *Pylon*, antiqui *Neleia Neſtoris* arua
Miſimus, incerta eſt fama remiſſa *Pylo*.
Miſimus & *Sparten*, *Sparte* quoq; neſcia veri,
Quas habitas terras, aut vbi lentus abes.
Vtilius ſtarent etiam nunc mœnia *Phœbi*:

Iraſcor

Iraſcor votis heu leuis ipſa meis.
Scirem vbi pugnares, & tantùm bella timerem:
Et mea cum multis iuncta querela foret.
Quid timeam, ignoro, timeo tamen omnia demens,
Et patet in curas area lata meas.
Quęcunque ęquor habet, quęcunque pericula tellus,
Tam longę cauſas ſuſpicor eſſe morę.

Hunc totum locum cum viderit puer primo connexo ſyllogiſmo comprehenſum, partes ſingulas notabit, earumq; prędipuas exornationes. Propoſitionem igitur aſpiciet initio in quatuor primis verſibus poſitam.

Sed mihi quid prodeſt veſtris diſiecta lacertis
Ilios, et, murus quod fuit ante, ſolum:
Si maneo qualis *Troia* durante manebam,
Virq; mihi, dempto fine, carendus abeſt?

Deinde ſequitur aſſumptionis ſententia: At tu abes: & amplificatio ex adiunctis ruinis euerſę *Troiæ*: vbi ſex ſunt verſus.

Diruta ſunt alijs, vni mihi Pergama reſtant,
Incola captiuo quę boue victor arat.
Iam ſeges eſt vbi *Troia* fuit, reſecandaq; falce
Luxuriat *Phrygio* ſanguine pinguis humus.
Semiſepulta virûm curuis feriuntur aratris
Oſſa, ruinoſas occulit herba domos.

Dehinc repetitur aſſumptio, & augetur à maiori: non modò abes, ſed ita abes, vt ſcire nequeam vbi lateas. Quod exaggeratur factis *Penelopes*, interrogo, ſcribo, mitto in omnes orbis partes, nec quicquam de te audio. Decem ſunt hìc verſus.

Victor abes, nec ſcire mihi quę cauſa morandi,
Aut in quo lateas ferreus orbe, licet.
Quiſquis ad hęc vertit peregrinam littora puppim,
Ille mihi de te multa rogatus abit.
Quamq; tibi reddat, ſi te modò viderit vſquàm,
Traditur huic digitis charta notata meis.
Nos *Pylon*, antiqui *Neleia Neſtoris* arma
Miſimus, incerta eſt fama remiſſa *Pylo*.
Miſimus & *Sparten*, *Sparte* quoq;, neſcia veri
Quas habitas terras, aut vbi lentus abes.

Concluſionis ſententia tandem viceſimo primo ſecundoq; verſibus per contrarium ſignificatur.

Vtilius ſtarent etiam nunc mœnia *Troiæ*,
Iraſcor votis heu leuis ipſa meis.

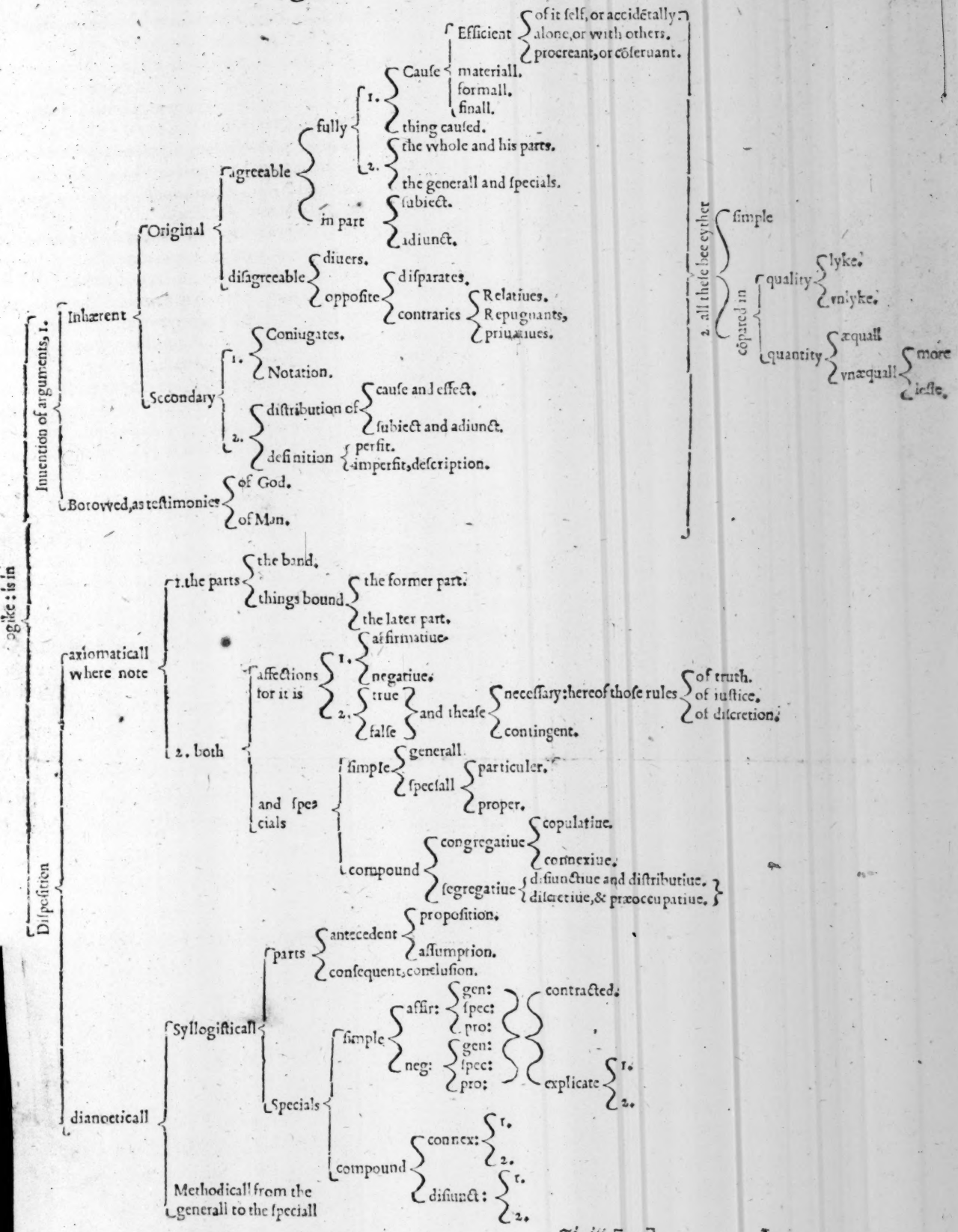
Sed & ipſi concluſioni amplificatio accedit ex adiunctis : ſex ſunt verſus :

Scirem vbi pugnares, & tantùm bella timerem,
Et mea cum multis iuncta querela foret.
Quid timeam ignoro, timeo tamen omnia demens,
Et patet in curas area lata meas.
Quęcunq; æquor habet, quæcunq; pericula tellus,
Tam longæ cauſas ſuſpicor eſſe moræ.

Quamobrem cum hac interpretationis diligentia puer totam ſententiam diſtinxerit, vel à diligenti præceptore diſtinctam acceperit, & ex octo & viginti verſibus, quatuor propoſitioni, ſexdecim aſſumptioni, & octo concluſioni tribuerit, hac ſyllogiſmi deſcriptione non ſolùm partes, ſed partium quoque ſententiam ſibi repræſentabit. Nam cum ſcierit hic primo loco propoſitionem, ſecundo aſſumptionem, tertio concluſionem eſſe, sciet itidem ex cognitis ſyllogiſmi legibus quæ vis cuiuſque partis eſſe debeat : quinetiam hac ratione facilimè φάνταϛιαϛ animo concipiet, per quas, imagines rerum abſentium ita ſubijciet animo, vt cernere oculis ac preſentes habere videatur. Vt in hoc exemplo concurrent antiquæ vrbis ruinæ, agricolæ, oſſa, nautę, mulier ſollicitè interrogans, tabellarij, bella, naufragia, cędes. In longioris autem orationis & diſputationis ambitu, præſertim ſi methodus ſeruata ſit, memoriæ præſidium præcipuum erit. Exemplum noſtra dialectica cōmodiſsimum erit, vt dialectica ſuijpſius inprimis memoriam confirmet, quę alijs opem confirmandę memoriæ pollicetur. Figuretur igitur hic primis rerum notis, artis dialecticę ſumma & vniuerſa partitio, quę quod dicimus, oculis etiam ſpectandum proponat.

Logike

A generall Table of the whole Booke.



Itaq; propoſitis hoc modo diſtributiſq, rebus, vt verborum quoq; contextus facilius ediſcatur (qui ab arte auxilij nihil admodum capit, niſi forte quod res ordine diſtributæ ſua vocabula ſecum rapient.

Verbaq; prouiſam rem non inuita ſequentur) accedat, ſi placet, meditatio, vt per partes paulatim memoria ducatur: quinetiam modica voce in meditando animus excitetur, vt duplici motu dicendi & audiendi memoria iuuetur: tum ſiqua ratio memoriam poſsit adiuuare, illa diſpoſitionis admonitio iuuabit: licebitq; philoſophis & oratoribus, qui locis & imaginibus artem quandam memorię confinxerunt, per nos quidem valere: nihil enim pollicentur, quod non vberius multò faciliuſq; teneamus. Aiunt enim ordinem prodeſſe memorię, ſed externis & commentitijs eam ſignis & ſimulachris inſtruunt, nos ordinis rebus inſiti doctrinam certiſsimam & veros locos pro rerum gradibus & generibus diſtinctos, rerumq; veriſsimas imagines adhibemus: illi verborũ memoriam infinitate formarum conturbant, dum propter ſingula verba ad ſingulas ſpecies eſt reſpiciendũ: Nos hanc partem rerum compoſitione & collocatione, quantum natura fert, adiuuamus. Quapropter quicquid eſt, quod ad confirmandam memoriam doctrina poſsit efficere, id totum dialecticę diſpoſitionis doctrina præſtabit.

Hitherto Ramus concerning the helpe of memory by Logicall diſpoſition: to the which counſayle of him, if we adde ſome comfortable ſimples, & haue a carefull hed ỹ we diſtemper not our ſelues either with vnorderly dyet, or vnhoneſt exerciſe, I am perſwaded it will be more auaileable, then all the volumes of the art of memory.

Examples of the perfect methode, appeare in the artificial putting downe of Arts (as in this type of Ramus his Logike already drawn) & alſo in ſome other philoſophicall diſcourſes.

For our Kalender, although ſhepheardes bee not woont to binde themſelues to any ouerſtrict methode in ſpeaking, yet that ſong of Colyn Clowt rehearſed by Hobbynoll in May, may make vs beleeue, that euen ſhepheardes, by the light of nature, did, aſmuch as in them lay, expreſſe this methode in their ſpeeches. For there he, after a poetical in-

nocation, and generall proposition of that which he hath in hand, I meane the prayses of Elysa, commeth nearer ỳ matter, and first putteth downe the causes, then adiunctes, and other argumcnts, incident to Elysa.

Instead af a definition we may vse this generall propounding of the matter: then deuide it into some fewe heades: and orderly discourse of euery head, vsing the places of inuention, the helpe of iudgement &c.

Sir William Stamford in his crowne pleas doth first define and propound, thus:

Pleas del corone sont les ples queux conteignōt l'offences faits encounter la corone et dignitie le roy, perque pur le mieulx entendement de eux, est requisite a veier queux sont les dits offences: et puis de la maniere coment ils serront pledus, et darreinement de la manier coment ils serront tries et iuges. And so goeth on forward, defining, diuiding, and making playne by examples all the speciall sortes of offences against the crowne.

Bracton followeth the order of the ciuill law altogether, insomuch that he that hath seene the one, may easily iudge of the other.

Perkins in euery of his seuerall tractates doth, as Stamford, propounde, diuide, and adde examples.

Lyttleton in like maner, by definitions, diuisions, and induction of speciall cases insteede of so many examples, made vp his booke.

Maister Theloall tooke occasion (as in his preface to the Lord Chancellor he confesseth) by Stamfords good motion, to make a more methodicall discourse of writtes, then was extant heeretofore. I will vse his owne wordes to shew hys owne order.

Pour ceo que mon entent est de entraiter de briefe, et des choses concernantes briefe, il moy semble conuenyent de commencer per la definition de briefe, et de monster quelle chose il est.

And afterwards, I'ay enterprinse de framer vn definition, ou plustost discription de briefe solong; le forme et doctrine d'eux, que le art de ceo professont, per les genres, differences,

pro-

proprieties, en tiel manner, &c. The definition I haue put downe in the firſt booke.

Then hauing defined it, he ſaith, me boyes a diuider mon briefe.

After the diuiſion hée vſeth a tranſition, wherin he briefly telleth, what hée hath done, and orderly declareth what remayneth to bée done moreouer.

Which kinde of Tranſitions, wanting in Lyttleton, make the coherence of his diſcourſes ſomewhat obſcure, as in that tractate of eſtates ſur condition, where hée firſt diuideth conditionall eſtates, thus:

Eſtates que homes ont en terres ou tenements ſur condition ſont de deux maners, ſ. ou ils ont eſtate ſur condition en fait, ou ſur condition en ley. And after the laying downe of ſo many ſeuerall caſes of the firſt part, as could be conteyned within the compaſſe of ſirteene leaues: hée immediatly, if not abruptly, proceedeth to the explication of the ſecond, without any tranſition at all: Neither telling what was done, nor what was to be done. So alſo in the diſcourſe of releaſes, he firſt deuideth releaſes thus. Releaſes ſont in diuers maners, ſ. releaſes de tout le droyt que home ad en terres ou tenements; et releaſes d'actions perſoncls et reals et auters choſes. And then hauing beſtowed ten leaues wholly vpon the firſt member of his diſtribution, hée ſets vpon ỳ ſecond part ſodenly without any warning giuen at all.

Digreſſions be ſometimes tolerable vpon neceſſary occaſion: but impertinent, or rather repugnant imaginations continually caſt in, marre all. A man taketh vppon him to reade vpon the ſtatute of fines, and hée thrummeth in 50. ſcattered & vndigeſted caſes of eſtate tayle in poſſeſſiõ, and as many of the ſame in reuerſion, with a clutter of other ſophiſticall and vncoherent poynts, much like a fooliſh paynter, who becauſe he had ſome little ſkill in paynting a peare tree, but no cunning at all in expreſſing anything els, would be ſure to make a peare tree grow on euery mans wal. So this fellow hauing met with ſome odde learnings of eſtate tayle, will needes haue vtterance for it. An other maketh euery caſe haue one idle poynt of a fine, for faſhion ſake, whereas

hée

hée foyſteth in 6. 8. 10. 12. or more extrauagant conceipts, as well agréeing with the nature of a fine, as a Harpe doth with a Harrow; yet, who but hée? Non equidem inuideo: miror magis, at the frenzie of the reader, and folly of the hearer. For if the readers intent be to explayne the ſtatute, then quorſum hæc tam putida tendunt? but if hée meane to make oſtentation of all his imaginations, me thinks he ſhould not make a well meaning ſtatute the cloake of two hundred ambiguities. I graunt the matter may bée well worth the hearing, but Nunc non erat his locus: Therefore as Horace ſayth.

Amphora cæpit,
Inſtitui, currente rota, cur vrceus exit?

To conclude I could heartily wiſh the whole body of our law to be rather logically ordered, then by Alphabeticall breuiaries torne and diſmembred. If any man ſay, it cannot be, he ſhould adde, by himſelf: if hée thinke it ſhould not bée, then I doe not ſomuch enuy his great wiſedome, as pitie his ruſticall education, who had rather eate Acornes with hogs, then bread with men; and preferreth the loathſome toſſing of an A. B. C. abridgement, before the lightſome peruſing of a Methodicall coherence of the whole common law.

Yet I am not hée, that will once open my mouth, generally to condemne the contracting and abridging of diſperſed & tedious caſes: But as, Lyttleton, Parkins, Stamford, Theloall, Bracton and Britton haue excelled the abridgers in light and order, ſo the paynefull abridgements of Statham and thoſe reuerend Iudges Fitzherbert, and Brooke, are more conuenient for many purpoſes, then thoſe vaſt heapes of ſcattered diſcourſes, throwne into euery corner of our yeare bookes: Which, notwithſtanding, are diligently to be reteyned: but the matter may bée, for the benefite of ſtudentes, more orderly contriued.

It is not my purpoſe, at this time to diſpute, whether the law of England, being one onely proper, and ſinguler law, appropriate to our nation, conſiſting of ſo many particularities, being ſubiect to ſuch continuall change and alteration, can bée made an art: But that the confuſion of writers may bée removed, the maner reformed, the matter better ordered,

I doe

I doo ſurely beléeue, becauſe I know aſſuredly.

Thus haue I at laſt, made an end of a confuſed meditatiõ, patched vp, I feare mée, rather in great haſt, then with good ſpéed. Wherein I thinke the art of Logike to bée as I haue put downe: but the precepts of the ſame muſt bée continually practiſed, as I haue elſewhere ſayde, or els the generall contemplation thereof will proue a fruitles conceipt & naked ſpeculation. Let vs folow therefore the counſell of Apelles; Nulla dies ſine linea. Let no day paſſe without ſome practiſe, either in making, framing, and inuenting of our ſelues, or in reſoluing & diſſoluing of things done by others, for the triall of their ſkil, and confirmation of our owne. Neither would I haue this practiſe continued onely in reading or writing, but in euery ciuill aſſembly or méeting: wherein yet I will not bée ſo ſeuere a cenſor, as to exact euery ſpeech to the formall rules of ariomes, ſyllogiſmes, &c. It ſhall bée ſufficient for vs to folow a more eaſie and elegant kinde of diſputation, ioyning Rhetorike with Logike, and referring that preciſe ſtraitneſſe vnto Philoſophicall exerciſes.

Neyther let any man thinke, that becauſe in common méetings and aſſemblies the wordes and tearmes of Logike bée not named, therefore the force and operation of Logike is not there vſed and apparant. For, as in Grammer wée name neyther Noune, Pronoune, Verbe, nor any other parte of ſpéech: and as in Rhethorike, wée make mention neyther of Metonymia, Synecdoche, Exclamatio, nor any other Rhetoricall figure or trope: yet vſe in our ſpéech the helpe of the one in ſpeaking grammatically, and the direction of the other in talking eloquently: ſo, although in common conference wée neuer name ſyllogiſmes, ariomes, propoſitions, aſſumptions, & other wordes of art, yet doo wée ſecretly practiſe them in our diſputations, the vertue whereof is, to make our diſcourſes ſéeme true to the ſimple, and probable to the wiſe.

I haue, for examples ſake, put downe a Logicall Analyſis of the ſecond Aegloge in Virgill, of the Earle of

Northumberlands caſe in Maiſter Plowdens reportes, and of ſir William Stamfords crowne pléas. For the Aeglogue although the verſes of Virgill be better knowne in Latine, then I can make them vnderſtode in Engliſh, (eſpecially obſeruing the ſame order of verſe) yet I haue attempted the interpreting of the ſame by a poeticall Paraphraſis, for the contentation of ſuch as vnderſtand no Latine: & withall inſerted the Latyne verſes, for their pleaſure, that diſdayne the Engliſh.

Alexis 2. Aegloga Virgilij.

FOrmoſum paſtor *Corydon* ardebat *Alexin*
Delitias domini, nec quid ſperaret, habebat.
Tantùm inter denſas, vmbroſa cacumina, fagos
Aſſiduè veniebat. Ibi hæc incondita ſolus
Montibus, & ſyluis ſtudio iactabat inani.
O crudelis *Alexi*, nihil mea carmina curas;
Nil noſtri miſerere; mori me deniq, coges.
Nunc etiam pecudes vmbras & frigora captant:
Nunc virides etiam occultant ſpineta lacertas:
Theſtylis & rapido feſsis meſſoribus æſtu
Allia, ſerpyllumq, herbas contundit olentes.
At mecum raucis, tua dum veſtigia luſtro,
Sole ſub ardenti reſonant arbuſta cicadis.
Nonne fuit ſatius triſtes *Amaryllidis* iras,
Atq; ſuperba pati faſtidia, nonne *Menalcam*,
Quamuis ille niger, quamuis tu candidus eſſes?
O formoſe puer, nimium ne crede colori:
Alba liguſtra cadunt, vaccinia nigra leguntur.
Deſpectus tibi ſum, nec quis ſim, quæris *Alexi*,
Quàm diues pecoris niuei, quàm lactis abundans.
Mille meæ Siculis errant in montibus agnæ.
Lac mihi non æſtate nouum, non frigore defit.
Canto, quę ſolitus, ſi quando armenta vocabat,
Amphion Dircæus in *Actæo Aracyntho*.
Nec ſum adeò informis, nuper me in littore vidi,

Cum

Cum placidum ventis ſtaret mare, non ego *Daphnim*
Iudice te metuam, ſi nunquam fallit imago.
O tantùm libeat mecum tibi ſordida rura,
Atq; humiles habitare caſas, & figere ceruos,
Hædorumq; gregem viridi compellere hibyſco,
Mecum vnà in ſyluis imitabere *Pana* canendo.
Pan primus calamos cera coniungere plures
Inſtituit: *Pan* curat oues, ouiumq; magiſtros.
Nec te pæniteat calamo triuiſſe labellum,
Hæc eadem vt ſciret, quid non faciebat *Amyntas*?
Eſt mihi diſparibus ſeptem compacta cicutis
Fiſtula, *Damætas* dono mihi quam dedit olim,
Et dixit moriens, te nunc habet iſta ſecundum:
Dixit *Damætas*, inuidit ſtultus *Amyntas*.
Prętereà duo, nec tuta mihi valle reperti
Capreoli, ſparſis etiam nunc pellibus albo,
Bina die ſiccant ouis vbera, quos tibi ſeruo.
Iampridem à me illos abducere *Theſtylis* orat:
Et faciet, quoniam ſordent tibi munera noſtra.
Huc ades, ô formoſe puer, tibi lilia plenis
Ecce ferunt nymphæ calathis: tibi candida *Nais*
Pallentes violas, & ſumma papauera carpens,
Narciſſum, & florem iungit benè olentis *Anethi*.
Tum *Caſia*, atq; alijs intexens ſuauibus herbis,
Mollia luteola pingit vaccinia caltha.
Ipſe ego cana legam tenera lanugine mala,
Caſtaneaſq; nuces, mea quas *Amaryllis* amabat:
Addam cerea pruna; & honos erit huic quoq; pomo:
Et vos, ô Lauri, carpam, & te, proxima myrte:
Sic poſitæ quoniam ſuaues miſcetis odores.
Ruſticus es, *Corydon*, nec munera curat *Alexis*:
Nec ſi muneribus certes, concedat *Iolas*.
Eheu quid volui miſero mihi? Floribus auſtrum
Perditus & liquidis immiſi fontibus apros.
Quem fugis ah demens? habitarunt dij quoq; ſiluas,
Dardaniuſq; Paris. *Pallas* quas condidit arces,
Ipſa colat: nobis placeant ante omnia ſiluæ.

Torua leæna lupum ſequitur; lupus ipſe capellam;
Florentem Cithyſum ſequitur laſciua capella,
Te *Corydon*, ô *Alexi*: Trahit ſua quemq; voluptas.
Aſpice, aratra iugo referunt ſuſpenſa iuuenci,
Et ſol creſcentes decedens duplicat vmbras:
Me tamen vrit amor, quis enim modus adſit amori?
Ah *Corydon*, *Corydon*, quæ te dementia cepit?
Semiputata tibi frondoſa vitis in vlmo eſt.
Quin tu aliquid ſaltem potius, quorum indiget vſus,
Viminibus, mollíq; paras detexere iunco?
Inuenies alium, ſi te hic faſtidit *Alexis*.

The ſame in Engliſh Hexameters,
verſe for verſe.

SEelly ſhepheard *Corydon* lou'd hartily faire lad *Alexis*,
His maiſters dearling, but ſaw no matter of hoping.
Only amid the foreſt thick ſet with broad-ſhadoe beachtrees
daily reſort did he make: thus alone to the woods, to the moũtains
With broken ſpeeches, fond thoughts moſt vainly reuealing.
O hardharted *Alexis*: I ſee my verſe to be ſcorned,
My ſelfe not pitied, my death by thee laſtly procured.
Now do the beaſts eũn ſeeke for cooling ſhade to refreſh thẽ,
Grene lyzards now too in buſhes thorny be lurking,
And for faint reapers by the ſuns rage, *Theſtylis* haſtning,
Strong-ſmelling wilde thime, and garlyke beates in a mortar.
But whilſt I trace thee, with ſun beames all to beſcorched,
Groũes by the hoarſchirping graſhoppers yeeld a reſoũding.
Waſt not far better t'haue borne with ſurly *Menalcas*,
And ſore diſpleaſed, diſdainfull, prowd *Amaryllis*,
Although thou white were, although but ſwarty *Menalcas*?
O thou faire white boy, truſt not too much to thy whitnes:
Faire white flowers fall downe, black fruits are only reſerued.
Thou cârſt not for mee, my ſtate thou knowſt not, *Alexis*:
What flocks of white ſheepe I do keepe, of milke what abũdance.
On *Sicil* high mountains my lambs feed more then a thouſãd:
New mylke in ſummer, new mylke in winter I want not.

My

My ſong's like *Thebane Amphions* ſong, when he called
His wandring bullocks, on Greekiſh mount *Aracynthus*.
Neyther am I ſo fowle: I ſaw my ſelfe by the ſeaſhore,
When ſeas al calme were: I doubt not, but by thy cenſure,
Daphnis I ſhall ſurpaſſe, vnles my face do deceaue mee.
O, let this be thy will, to frequent my ruſtical harbors,
And ſimple cotages, and ſticke in forkes to vphold them,
And driue on forward our flocke of kids to the mallowes:
Wee wil amid the foreſt contend *Pans* ſong to reſemble:
Pan was firſt that quils with waxe ty'de ioyntly together.
Pan is good to the ſheepe, and *Pan* is good to the ſheepſman.
Neither think it a ſhame to thy ſelf t'haue plaid on a cornpipe:
For, that he might do the ſame with skil, what did not *Amyntas*?
Damætas long ſince did giue me a pipe for a token,
Compact of ſeûn reedes, all placed in order, vnæquall:
And thus ſayd, when he dy'de: One vſed it onely beefore thee.
Thus ſayd *Damætas*, this greeued fooliſh *Amyntas*.
Alſo two prety kids doe I keepe, late found in a valley
Dangerus: & their skins with mylke white ſpots be bedecked,
Of dams milke not a drop they leaue; & for thee I keepe them.
Theſtylis of long time hath theſe kids of me deſired;
And they ſhalbe her own, for that thou skornſt what I giue thee.
Come neare, ô faire boy, ſee the nymphs bring here to the lilies
With full ſtuft baskets: faire *Nais* now to thy comfort
White violets gathering, and poppies daintily topping, (Dill.
Daffadil ads to the ſame, & leaues late pluckt fro the ſweete
Then mingling Caſia with diuers ſauory ſweet flowrs,
With yelowiſh Marygold, ſhe the tender Crowtoe bedecketh.
Ile plucke hoare quinces, with ſoft downe all to beſmeared,
And Cheſſnuts which were loûd of my ſweet *Amaryllis*.
Add wil I wheateplumbs too: for this fruit will be regarded,
And you laurell leaues wil I plucke, and thee, prety myrtle
Next to the laurell leaues: for ſo plâſt yeeld ye the ſweet ſent.
Th'art but a foole *Corydon*, for firſt gifts mooue not *Alexis*,
Then, though thou giue much, yet much more giue wil *Iolas*.
But what alas did I mean, poore foole? I do let go the ſouthwind
Into the flowrs, & boares ſend forward into the cleare ſprings.

Whom flyêſt thou mad man? Many gods haue alſo reſorted,
And *Paris* of olde *Troy*, to the woods. Let towers by *Minerua*
Buil't, by *Minerua* be kept; and woods of vs onely regarded.
Grim Lioneſſe runneth to the wolfe, & wolfe to the yong gote,
And wanton yong gote to the flowring tetrifol haſtneth,
And *Corydon* to *Alexis*: a ſelfe ioy draweth on each man.
But ſee the plow coms home hangd faſt by the yoke, to the bul-
And ſhadoe by *Phœbus* declining double appeareth: (locks,
Yet do I burne with loue: for what meane can be to louing?
Ah *Corydon*, *Corydon*, what mad rage hath thee bewitched?
Thy vin's ſcarſe halfe cut, peſtred with leaues of her elme tree:
Leaue this churliſh boy, and bend thy ſelfe to thy buſnes,
With twigs and bulruſh ſome needefull thing be a making:
Thou ſhalt find others though th'art diſdaind of *Alexis*.

There

There bee, saith Freigius 2. parts of the Aeglogue.

First the propounding of the argument, which is of the incontinency of a louer lamenting his loue in solitary places,

Secondly the complaint and lamentation of Corydon the louer, speaking

Accusing his cruelitie, which is argued

First by comparison of the vnlikes, the proposition consisteth of three vnlikes, the beastes, Lyzardes, and reapers seeke shade: the reddition is, but yet I burne with loue.

2 By the lesse Amaryllis and Menalcas are too cruell, but thou more cruel then they.

3. By the cause of his pride, whiche was his beautie, and it is extenuated by a similie. As white primprint sales, but blacke Violets bee gathered, so beautie decayes, and blacknes remaines.

First to his loue, and that by

Enticing him to come to his house to sing, to driue the Kids to the Wallowes, &c. and that by prayling of himselfe by his adiunctes.

AAA.

DDD

AAA Corydons adiuncts be theſe: he is

- Rich, and his riches be proued by ſpecials
  - his lambs
  - his milke.
- Skilfull in ſinging, and that is proued.
  - By a compariſon of the equall, in that hee is equall to Amphion: and heere an obiection is preuented by a compariſon alſo of the equall: neither thinke it a ſhame to play on a pype, for Amyntas thought well of it. Then the praiſe of his ſinging is continued by his pype, and his pype by the autor that gaue it, which was Damœtas, and another that enuyed it, to wit Amyntas.
- Faire & comly: it is proued by
  - The adiunct of his image in the water
  - Compariſon of the equall, as was Daphnis.
- Franke and free, which is proued by his ſundry gifts.
  - 1. His kydds, commended by their adiuncts, in that they were white ſpotted, well ſucking, and deſired of Theſtylis.
  - 2. His baſket of ſweete flowers gathered by the Nymphes, they be hearbs and alſo flowers, as,
    - Lillyes.
    - Violets.
    - Poppy.
    - Dylle.
    - Daffadil.
    - Caſſa.
    - Marigold
    - Crowtoe.
  - 3. His diuerſe kindes of
    - Fruits as
      - Quinces.
      - Cheſnuts.
      - wheatplums.
    - Boughs as bee
      - The Lawrell.
      - The Myrtle.

DDD. Secondly to himselfe, by resisting himselfe, as it were, and here is conteyned both a

- double correction or calling backe of himselfe.
  - the first is both of the
    - aduinct, pryde, and contempt of hys gifts and here is
      - First a double exclamation: and here
        - in the first hee noteth Alexis his pryde by two similies, ẏ south winde, and the boare.
        - in ẏ secõd he entreateth againe, by the equalitie, as Paris, and ẏ gods &c.
      - Secondly a permission by the vnlike. Let Pallace keep her Pallaces, and wee the woodes which is our delight. The reddition is made playne by comparison of lykes: where also the generall is concluded by the spectalles in a Clymax of three degrees, Grimme Lyonesse to the Wolfe &c.
      - Woze, or greater, for Iolas gaue moz large ly then hee.
  - the second is of the aduinctes both of
    - The tyme, where there is a Periphrasis of night, and an argument of the diuers, albeit the heate of the sunne is mitigated by the comming of the night, yet I burne still with loue: the reason followeth of the aduinct of loue: for loue hath no meane.
- Remedy of loue by cõtraries which be:
  - busnesse in making some needefull thinge of twigs and bulrush.
    - his busnesse neglected, where is a double negligence: of
      - his vine halfe cut
      - his elme full of baughes
      - for both be naught.
  - and hope of some other louer, if Alexis should still thus disdaine him.

For the Earle of Northumberlands caſe, I haue rather ſhewed what is done by maiſter Plowden, then what might haue bene done by a better Logician. Le matter fuit argue en Leſchecquer M.9.& 10. Eliſ. deuãt touts les Juſtices d'angleterre et Barons deſchecquer, per Onſlow Sollicitor, Gerard Atturney, Wray & Barrham ſeriants le roigne, del part le roigne: et per Shirborne et Bell. apprẽtices et Meade ſeriants del part le Coũte. Le caſe fuit tiel; l'attorney le roigne informe le court, que ou le roigne doyt auer touts mynes de oꝛe et d'auter mettail conteignant oꝛe per prerogatiue, el 19 Martij. An.8.regni ſui eſteant ſeiſie en ſon demeſne, come de fée en droit la coꝛone, del waſt dit Newland, in com. Northumberland, en queur certene veynes de quyure ſont, conteignants oꝛe; aſſigne T. & D, de ſower &c. queur ſowont 600000 poys &c. et le Counte eur diſturbe: le Counte, proteſt: que le roigne ne doit auer per prerogatiue &c. pro ple dit, que quant al 500000 parcel del 600000, le terre in que &c. fuit done al counte per patent le roy et roigne P.& M. dat. a Richmond, le 15 del Auguſt 4. & 5. An. reg. &c. ex gratia ſpeciali, certa ſcientia, & mero motu ſuis &c. et que il diſturbe &c. et auerra, que ceſt veyne fuit ouert primes puis le dit 15 iour del Auguſt. an.4.& 5.reg.&c. 1. April. an.7. Eliſ. et trauerſe le ſeiſine le roigne le dit 15. iour del March. Et pur les auter 100000, reſidue del 600000, il plede patent le dit roigne del honoꝛ del Cokermouth, oue wꝛecks, mines, &c et que le myne in que &c. fuit ouert iour del date del patent et deuant &c. iſſint il diſturbe prout bien a luy liſt. ſur que l'atturney le royne, demurre en ley. Les points ſont generall, ou ſpeciall. les general points ſont deux: le primer, ſi touts mynes d'oꝛe et argent in terres del ſubiects, oue povar de ſower le terre et aſporter le oꝛe &c. apperteigne al roy per prerogatiue, car meſt in le treatiſe de prærogatiua regis, et le ſower tutch le francktenement et l'inheritance d'auter. Le ſecond, ſi mynes de Copper conteignant oꝛe ou argent, perteigne al roy vt ſupra. Le proper et ſpeciall poynt que immediatement concerne le caſe del Counte, eſt, ſi les mynes de quyure cõteignãt oꝛe ou argent, perteigne al roy per prerogatiue, Vtrum le graunt P.& M. del terre en le primer caſe, et de touts et ſinguler mynes en l'auter caſe per patent de gratia &c. fait les mynes de paſſer del eur al dit Counte, on nemy.

Donqueꝛ primerment eſt a dire de les arguments de les

dits

dits ſeriants et apprentices, puis de le iudgment et opinion des Iuſtices.

Les arguments del primer point, pur le roigne, ſont in confirmando, ou confutando: les confirmant arguments ſont inherent ou borowed, come teſtimonies et autorities: les inherents ſont quater, et Onſlow fait troys de eux, et Gerard le quart.

Le primer eſt deryue del aduance excellency del royet de ceux mettayles, &c. ſic,

Les choſes plus excellents del terre perteigne al perſon pluis excellent que eſt le roy: probatur a pari,

Les choſes plus excellent del mer et eawe perteigne al roy per comō ley. A A.

Ergo et ceux del terre, come oze et argent,

Mes oze et argent ſont le pluis excellent choſes del terre:

Ergo oze et argent perteigne al roy, &c. et les mynes ceux conteignants &c.

Le primer est de treatise de prærogatiua regis, cap. 11. (que n'est nouel ley, mes declaratiõ del comon ley) s. Rex habebit balenas & sturgiones captos in mari, vel alibi infra regnum.

A A.
Cest premier part del enthymeme est confirme per nouel sylogisme, contenant un argument del special, illum constituto.

Le comen ley appropre al roy sturgions et balenes que sont deins le mere en engleterre: s. les braches del mere: et ceo est proue per deux testimonyes.
Mes des choses de la mer, les pisches, et de pisches, les sturgions et balenes sont plus excellentes.
Ergo le comen ley appropre al roy les choses plus excellentes de la mere et eaux.

Le second est del Britton que estoy lõg temps deuant le treatise de prærogatiua regis et il monstre en son chapter de trouours que le roy auera les pisches per prerogatiue per le comen ley en son temps.

Le second argument est del causes principalls et coadiuuants: s. le roy, et le treasure: queux ambideux deuont concurrer al mayntenaunce del realme:

Il est reason que il que ad le regiment et tutel del people come principall cause, queux il ne peult defender sans adiuant et instrumentall causes, aucroit ces aydes et causes adiuuants.
Mes Pollice le roy que le ley a luy appoint est de defender ses subiectes: et le treasure, que est terme les senows del guerre, est le adiuuant cause pour defender eux vers tout hostilitie.
Ergo il est conuenient que le roy auoyt le treasure et mynes de oze et argent, en queux consist cest treasure.

Le

A que il apperteigne de metter certeine print et price sur le oze et argent issint que il poet estre disperse enter les subiects, per entercourse de merchandise, bender achater ec. A cestui il apperteigne dauer l'oze et argent.

Mes ces choses tam solement apperteignont al roy mesme, et a nul auter. Car il fuit graund treason per le comen ley deuant l'estatute de Anno. 25. E. 3. ca 2. come il apiert per 23 E. 3. lib. ass. ou feme fuist arse pur fauxer ou counterfeister money

Ergo al roy apperteigne les mynes et oures del oze et argent.

Le terce conteigne vn final cause et vse del money que est, d'estre coigne, print, et value. Car donques solement il est currant pur le cõmoditie del subiects en lour mutual commercion ou traffique

Ceo que ouste le conuenience et bone proporcion del members del bien publique en feasant le subiect et seruant greinder que le roy et gouernour doyt estre remoue hors del bien publique, come chose pernicieux et causant rebellion, contempt, et honor en le subiect, mes deposition, peril, et danger en le roy.

Gerard fait le quart argument, conteignãt les pernicieux effects del cest donation de oze et argent al subiects.

Mes le graunting del mynes de oze et argent al subiects fait ec.

Ergo ceo doit estre remoue hors del bien publique.

Ceo que eſt vſe de temps del vn roy puys auter, oue l'aſſent del iudges et auters ſages del ley, et dont les charters et recordes ſont enrolles en leſchequer, come choſes de effect, et come foundations al accoumpts, ne poet eſtre dit tortious. Car ley n'eſt ſeye ſi non per vſage, et vſage proue que il eſt ley.

Dyez eſt adire del teſtimonies queux ſont de deux genres: les primers ſont matters de record, et charters le roy: les auters ſont eſcripts, dicts, et edicts del certeine homes: primerm̃t pur les primers, nuttomus ceſt foundement derive del effects et vſes et cuſtomes del predeceſſors, et certeine adiuncts incidents a les dits choſes.

Mes que mynes de oze et argent, en auters ſoyles ſont al roygne per prerogatiue, eſt conſonant al pſe &c. Vide, AAA.

Ergo il n'eſt tortious.

AAA.
Le minor eſt confirme per diuers precedentes, et matters de record hors de leſch equer q; eſt la court del reuenues le roy en tẽps de diuers royes: les records ſont

primerment recites et fõt en tropis maners,

- Aſcuns ſont charters fait de graunt de mynes de oze et argent en auter ſoyle: Vide, OO.
- Aſcuns pronont accoumpts de reuenue del tyel mynes en auter ſoyle, d'eſtre rendue al roy. RR.
- Aſcuns pronont que le roy ad impled pernours del profite des owzes &c. in terre de auters. NNN.

Puys, lour auctorittie eſt confirme. BB.

1 En temps le roy. E. 3. 32. Anno.
2. Fuit charter le roy: R. 2. 8. en le explica-
cation du quel, eſt conteigne ceſt ſyll:

Si le owze de oze et argent eſt al roy, le ley done a luy meanes de bener a ceo, que eſt per ſower.

Mes le owze de oze et argent eſt al roy.

OO.
Les recoꝛds del 1. genre ſont huyt:

Ergo le ley done a luy meanes de bener a ceo, que eſt per ſower.
3. Per le roy: H. 4. 2.
4. Per le roy. H. 6. 5.
5. Per le roy. H. 6. 11.
6. Per le roy. E. 4. 15.
7. Per le roy. E. 4. 18.
8. Per le roy. H. 7. 1.

RR.
Ceux de ſecond eſpece ſont deux:

L'un accoumpt fuit fait et rendue en l'eſchecquer ſur le leaſe del mynes de oze et argent et quiure fait per le roy Ed. le tierce a Iohan Balaunce, et VValter Goldbeater: per quel apiert que le roy fuit reſponde del 20. marbes pur le pꝛimer an, et rpens pur le ſecond an, pur ceo que les leſſees moꝛerent, et le roy auoꝛt graunte les mynes as auters.

Lauter accoumpt fuit fait per Henry eueſque de VVincheſter Cardinal d'engleterre, vn del exe-cutoꝛs Iohn Duke de Bedford, fermour de les mynes de oze et argent en les counties de Deuon. et Coꝛn. de le 15. part del pure argent re-ſerue ſur le graunte, ſ. de le 15. iour de Decem-ber an: 22. H. 6. teſques al 16. iour de Auguſt an. 23. meſme le roy: et ſur ceo accoumpt il rende trent ſize lyuers pois de pure argent, et deux ounces ſurdant de meſme le 15. part.

NN. M'eſt foꝛſques, vn example de pernours del owze, impledees per le roy. 36. H. 6. f. ceo de Roger Chambernoume, que pur ſon diſcharge fuit chaſe de ſuer al roy pur pardon, ſachant per ſon counſel, que il ne puyſt defender le matter per le comen ley.

BB. Laute-

BB Lautorite del recoyds auandits est confirme en deux maners 1. per vn generall axiome, que est tiel, les Recoydes de chescune court sont le pluis effectuall proufes del ley en choses treates en ceo court: et ceo que est vse en vn court, est ley en touts courtes, et per tout le realme: sic hic, nul proofe del reuenue le roy est pluis forte que les recoyds del court en que le reuenue est rend s. Lescheqer. le axiome auandit est proue per le particuler enumeration de les special matters subiects del courts le roy. Car

Quant al matters del coyone, s. en appeales de felony, et endytements de murder et treason, et tyels semblables, si question surde, quel est ley en tyels choses et quel non, les Recoyds del bank le roy, sont le pluis effectuall proofe de ceo: et ceo que est vse ne dott estre prise come proofe del ley per tout le realme. Car ceo court treate de tiels choses et a iurisdiction de eux, et les recoyds la, sont testmoignes del ley en ceux potnts.

Et les Recoyds et precedentes del comen banke, in le proprietie deibiens ou chatels reals ou personals, ou droits ou tytles en terres et tenementes.

Ergo eodem modo les Recoyds del eschequer, pur choses concernants le reuenue le roye, et que apperteignont al roye et que poyt ou attrent reuenue al roy. et ceo est confirme per le recitall del special cases dont iugement fuit done accordant al Recoydes del exchequer. M. M.

Primerment le caſe de Littleton cap. ſocag. que action de accoumpt ne gift vers executors pur aſcun, ſi non pur le roy tantſolement, eſt proue per le Records del eſchequer, lou accoumpts pur duities le roy ſont diſcuſſe & reſponde, et que accoumpera, et que nemy.

2. Jn le caſe vouche per Littleton cap. de grand ſeriantie, hors del. 11. H 4. Cockein chiefe baron demaund des iuſtices del comen bank, ſi vn tient del roy a trouer a luy vn home al guerre deins les 4. meres, ſi fuit grand ſeriantie ou nemy, ou fuit reſponde, que fuit: et adonques il demaund ſi le roy auera reliefe ſolonque le value del terre ou nemy, ad quod non fuit reſponſum, car ils ne beſoigne de reſponder luy a ceo, pur ceo que ſi fuit grand ſeriantie, il poet ſeyer per le vſage en le eſchequer, quel ſumme il payera &c.

MM. Les ſpeciall caſes ſont ceux

3. Et dillonques vient le notice del ley a Littleton, que ſi le villeine le roy purchaſe biens, et alien eux deuant ſeiſer, que vncore le roy poet eux ſeiſer apres, car tyelment fuit le vſage del eſchequer, en quel court tiels biens fueront reſpondue al roy, et la il apprize, quòd nullum tempus occurrit regi.

4. Jſſint en le caſe ſir William Sentlow, que a mary le feme de ſir William Candiſh, miſe per Gerard per que il apiert. que ſi aſcun eſt accoumptant al roy, ou ſi aſcun money ou biens ou chateis perſonals del roy, veigne al mains daſcũ ſubiect per matter de record, ou matter en fait, que le terre de tiel ſubiect eſt charge pur ceo, et ſubiect al ſeiſure le roy, en quecunque mains que il veigne apres, ſoit il per diſcent, ou purchaſe, ou anterment.

5. Et ſur ſemblable reaſon le caſe eſt rule in 50. lib. Aſſ. lou vn R. auoit receaue certeine biens de ſir Hugh Spencer que fuit atteint, per que les denyers attient al roy. R. que auoit les ioyntement oue ſa feme, mozuſt: et per agreement de touts les iuſtices, le terme en les mains le femme ſuruiuor fuit charge al execution le roy pur les denyers. Car le roy puit auer execution de ceo en le vie le baron, que fuit garrant per moults records en le eſchequer.

case

Mm. Jeſques

Leſques icy nous auons propoſe le confirmation del Recordes, per vne generall axiome prouee per diuers ſpecialis: ore eſt a dire del ſecõd proofe, que eſt vn argument a fortiore.

Les reports de noſtre ley ſont fait pur le pluis grand part de les parols et dits de les iudges, et ceo en que ils aſſemont eſt priſe de eſtre le ley.

Ergò a fortiori lour iudgements et lour affaires entres de Recorde en courtes, doyent eſtre priſe de cy grand, ou pluis grande effect, que lour parols, ou dits.

Ore eſt adire de ſecond kinde de teſtimonyes ſ. de les eſcripts, dicts, et edicts de certeine homes. Et ſont quater. le quart de queux eſt illuſtre per vn argument a diuerſis.

1. Fuit dit per Gerard que en le lyuer appelle expoſitiones vocabulorum que fuit miſe en print 40. ans paſſe, il eſt declare que mynes de ore et argent en quecunque terres que ils ſont, afferont al roys de realme.

2. Iſſint Wray dit, que Hesket apprentice que fuit perbien apprise en le ley, en ſon lecture extant ſur le ſtatute de charta forreſtæ, affirmaſt, que ſi fueront mynes de ore et argent en terre del ſubiects deins le forreſt, que ceux afferont al roy.

3. Iſſint il dit que il auoyt view les leys de ſaynt Edward le confeſſor, en queux fuit conteigne, quòd theſauri de terra pertinent domino regi.

4. Iſſint dit Barrham del leys William Conquerour queux il auoyt view, queux auoyent ſemblables parolles, queux leys fueront recites a luy per les ſages del realme a ceo iures, que ils deuant meſme le roy W. Conquerour verament reciteront les leys del terre, nihil prætermittentes. Queux parolles Theſauri de terra, les dits ſerjaunts priſteront pur owres de ore et argent, et nient pur treaſor troue. Car diſoyent que ils ſont appelles, Theſauri in terra, et nemy de terra, et iſſent diuerſa.

Aſſets

Touts les prerogatiues le roy sont contenes en le treatise de prærogatiua regis.

assets est dit de les arguments que fueront in confirmando, ore est besoigne de dire de les arguments in confutando. Car il poet estre dupliciter obiect 1. tielment per vn argument a toto.

Mes que le roy aueropt les owzes &c. n'est conteigne en le treatise de prærogatiua regis.

Ergò n'est ascune prerogatiue le roy.

Primerment, le treatise de prærogatiua regis n'est ascun cause per quel le roy aueropt ceux prerogatiues. Car le effect ne poet preceder le cause. Mes les prerogatiues la recitees en maner touts fueront al roy deuant le dit treatise escrye. Ergò ceo treatise n'est cause del prerogatiues le roy, le minoz, ou assumption est proue ab adiuncto temporis, car le pluis grand part de eux est recite per Britton en son lyeur en le chapter de trouers et de dzoits le roy quel lyeur fuyt fayt deuant le treatise de prærogatiua regis.

A cest obiection il est dupliciter respondue: Car le prapposition, 5. le maioz est falsse pur deux causes.

2. N'est ascun argument a toto ad partes, car le treatise auantdit n'est totum, en respect del particuler prerogatiues le roy. Car ceo treatise ne conteigne touts les prerogatiues le roy, mes part de eux: et isslut le argument nient conclude. Et il est proue que ceo treatise ne conteigne touts les prerogatiues le roy, per vn induction de moults special prerogatiues, nient compzehends en ceo treatise, tielment.

NN.

NN.

1. Le roy auera action ou ſuite d'accoumpt vers les executours del teſtator le roy, per prerogatiue donc a luy per le ley.

2. Il auera les biens ſon villeine vende deuant ſeiſur.

3. Il ſeyſera le terre que fuit a ceſty que doit render accoumpt a luy, ou que auoyt reccu aſcune biens ou chateux del roy, en quecunque mains que meſme le terre veigne apres.

4. Il poet wayuer iſſue, et demurrer en ley, ou econtra, poet wayuer demurrer, et pleader al iſſue.

5. Il auera treaſure troue.

6. Il auera eſcheate de eux attteint de treaſon.

7. Deuant l'eſtatute de 1. Ed. 3. il aueroyt en fee le terre tenus de luy, et alien ſans licence.

8. Il auera, pur ſatiſfaction de ſa det, ceo que eſt deliuer en court en execution al dettour le roy. Ed. 3. 43.

9. Si le patron ne preſent deins 6. moys, et le eueſque et apres luy de metropolitane ſuffer le laps, ou ſi eueſque patrone, et le metropolitane ſuffer le laps, le roy auera le preſentment, per ſon prerogatiue: 27. E. 3.

Et vncore ceux prerogatiues ne ſont recite en le treatiſe de prærogatiua regis.

Ergò le treatiſe de prærogatiua regis ne conteigne touts les prerogatiues le roy.

Le ſecond obiection eſt tyel ab adiuncta iniuria,

Ceo que touche le franckstenement et inheritance del ſubiect, ne doyt eſtre fayt per le roy.

Mes de kower terre, et prender dillonques le owze, quel eſt part del ſoile, touche le franckstenement le ſubiect.

Ergo le roy ne doit ceo faire. LL

Car ſicome preſcription et vſage poet doner tytle ou interest al ſubiect en le franktenement ou inheritance le roy, come in commen, ou voy, ou eſtouers clayme per preſcription en le terre del roy, ou en wayues, eſtrayes, wrecks, ou tiels ſemblables pertinent de droyt al roy, et vncore clayme per preſcription per les ſubiectes: Iſſint et per meſme le reaſon, preſcription et vſage poet doner al roy tytle ou interest en auter franktenement: cal il ne ſerra de pyer cõditiõ que le ſubiect, que auera ceo per preſcription vers les ſubiects et vers le roy.

Le primer eſt a pari, a le pareil.

LL.

Le maior, le propoſition du ceſty ſyllogiſme eſt faiſe: que poet eſtre proue per deux arguments.

Le ſecond eſt derive del vn enumeration de ſpeciall prerogatiues que le roy ad en franktenements dauters. FF.

FF.

1. Deuant le eſtatute de magna charta, le roy per ſon prerogatiue puit entrer en auter boys et prender arbres pur reparation de ces caſtels.

2. Deuant l'eſtatute de charta foreſtæ. cap. 2. le roy puit afforeſter le boys del auter home per que il fuit reſtraygne de ſuccider ſon boys demeſne ſans licence.

3. Il apiert P. 7. H. 3. que le roy, et auter per ſon commaundement poet enfreinder vn ſtewe, que eſt auter franckteenement, et prender le piſche pur ſon proviſion per force de ſon prerogatiue.

4. Villeine, que eſt le franckteenement et l'inheritaunce d'un auter, vient en le preſence le roy: le ſeigniour del villeine, ne puit luy prender en le preſence le roy, 27. lib. Aſſ. Car le preſence le roy eſt protection pur luy pur le temps.

5. Si le roy ad rent charge en fee hors del aſcun terre il poet diſtreyner pur ceo per ſon prerogatiue, en tout auter terre de ceſty que le dort payer: 13. E. 4.

Mes en touts ceux caſes, le franckteenement et inheritance del auter eſt touche.

Ergò le roy poet per preſcription auer prerogatiues touchant le franckteenement dauter.

Touts ceux arguments fuerent faits del part le roygne. Ex parte comitis, Shirbourne ſole, alledge le opinion de Newton: 19. H. 6. per implication deſte al contrary: ou il dit, que ſi home done terre en fee que ne vault 40. d. et percaſe le terre per caſuel aduenture en cell, come per myne de oze ou argent troue, vault per an 100. li. Si l'impledec vouche le feoffor al garranty, il poet monſtrer coment le terre ne vault forſques 40. d. al temps de feoffement, et a cel il eſt priſt dentrer en le garranty, ceo ſerra bon plee, et ne garrentera pluys que fuit al temps del feoffment. Mes ſi enter generalment en le garrantie, il rendra in value tant come il eſt oze: ex que dit (il dit) que fuit imply per l'intent del Newton, que le myne de oze et argent ſerra recouer oue le terre, et ne ſerra al roy.

Quant

Quant al second general point fuit inferre pur le roygne, que ſi iſſint ſoit que le roygne auera per prerogatiue touts les mynes de oze et argent en les terres de ſubiects, que de ceo il doet enſuer en maner come conſequent, que il doyt auer ceux owres et mynes de quiure oze en queſtion, ſ. cybien le cinquecent mille pois contenus en le primer ple en barre, come l'auter cent mille pois contenus en le ſecond barre: pluſoꝛs ſont reaſons.

Le primer eſt quaſi a parte precipua que tract a luy le tout

Si le oze et argent apperteine al roy, donques le quiure apperteigneroit: car le oze ou argẽt et le quiure ſont enſemble, et en le ſolle indiuiſible, et leur commixture fait eux come vne choſe entier: & omne magis dignum trahit ad ſe minus dignum, come oze et argent le quiure: ceſt confirme per troys ſpecialles que ſont ſemblables. (4.)

Mes le oze et argent apperteigne al roy, et eſt confeſſe que meſme ſixcentmille pois de quiure conteigne en ſoy oze ou argent.

Ergò le quyure a luy apperteigneroit.

Le ſecõd eſt ab adiuncta abſurditate,

Si quiure apperteigne al ſubiects que ne poet eſtre ſeuere mes per foundze, iſſint le roy ſerroit ſeruant al ſubiect pur fower et foundze ſon quyure.

Mes ceo eſt tout irreaſonable et abſurde.

Ergò il ne apperteigneroit al ſubiects, mes al roy.

(4)

En cauſe del charters del inheritance eſteantes en vn cyſte ou boxe enſeale, ſi le poſſeſſor ent mozuſt, les charters afferont al heyre, et le boxe, ſi fuit ouert, al executours: Mes entaũt que eſt enſeale, et iſſint les charters, et le boxe ſont fait vne choſe entier, et les charters ſõt pluis pzecious que le boxe le heyre que ad pzopertie al charters, auera le boxe auxi, et nyent les executozs, ſur le reaſon auantdit.

Iſſint ſi vne chariot que eſt traye ove ſize chiuals eſchue ſur vn, et luy tue: les chiualles ſerront forfayt al roy come Deodand cybien come le charyot que tue l'home, pur ceo que ils fueront attache al chariot, et iſſint fueront come vn choſe enſemble, que occaſionont ſon mozt.

4.

Iſſint ſi obligation eſt fait a deux, ou deux ſont poſſeſſe d'un chyuall, et l'un eſt attaint, le roy auera le obligatiõ, et tout le duitie, ou le chyuall, pour ceo que il eſt choſe entier.

Donques per ſemblable reaſon et ley, pur ceo que le oze ou argent et le quiure ſont enſemble, et en le ſotie indiuiſible, et lour commixture fait eux entier, le roy auera tout enſemble. Quia magis dignum &c.

1. Records dont le

- Primer est an. 7. E. 3.
- 2. 17. R. 3.
- 3. 7. H. 4.
- 4. 17. H. 6.
- 5. 30. H. 6.
- 6. 31. H. 6.
- 7. 33. H. 6.
- 8. 34. H. 6.
- 9. 2. E. 4.
- 10. 8. E. 4.

3. A genere tyelment,

Touts mynes et owres poztãts ore ou argent et base mettayle en semble que sont en soyle dauters perteignont al royne: et ceo est proue per specials.

Mes le informa tion contcime que cest myne cõteigne en luy ore et argent a uec le quiure: et n'est dedit per respons, mes pleinement con fesse.

Ergò cest mine ẽ le terre le counte perteigne al Joyne:

2. accounpts rende al roy dont,

Le primer suit fait per William Wymoundham del profits del mynes en les counties de Deuon. et Corn. del 12. iour de August. An. 22. E. 1. iesques le 23. de September, 25. eiusdem regis.

Le second per William de Aulton clerke pur les profits del mynes en les counties de Deuon. et Corn. del quart del March, 26 E. 1. iesques le 18. de Aprill, 27. eiusdem regis.

Le tierce, per Mathew Crawthorne, de les mynes in Deuon. et Corn. 15. E. 3.

Le quart per Iohn Maneron que succeede Crawthorne, fait del 19. E. 3. iesques al 23. Eiusdem regis.

Le sinque per vn Robart Glouer.

Touts mynes en quex eſt aſcun argent ou oze, apperteigne al roy,

Le quart eſt deduct hoꝛs de les dits recoꝛdes et eſt a genere, Illint,

Mes les mynes de quyure conteignont argent, Car nul myne d'eſtayne eſt voyde d'argent:

Ergò touts les mynes de quyure appertеigne al roy.

Et ceo eſt confirme per charter le roy Edw. le primer graunt al ſubiects del counte de Cornewale, cõfirme per le charter le roy R. 2. que fuit mitigate per leſta: de 50. E. 3. per queux apiert que lour autoꝛitie en Cornewale et Deuon. de fower et de auer eſtayne fuit derriue del roy: et certaine quantitie del eſtayne eſt payable al coꝛone pur tyel libertie teſque a ceo iour: come en aſcun lieus en le countie de Darby le roy ad certayne quantitie del plumbe ſur conſideration que argent eſt en ceo, et que il abſteynera de vſer le extremitie de ſon pꝛerogatiue. Mes en Darbyſhire et ailours ou ſterile mynes de plumbe ont eſte apiert tout temps, et le roy nauoyt aſcun pꝛofite, les ſubiects la poient pꝛeſcriber pur ceo vers le roy, et le fower et pꝛiſel del plumb ſans payment, eſt pꝛeſcription pur le pays, et come Heſket auantdit tient, le pꝛeſcription en tiel caſe eſt bone. Car il y auoit diuerſite del mynes de plumbe, car aſcunes fueront fertile, ceſtaſſauoir, conteignants en eux oze ou argent: et aſcuns ſterile, ceſtaſſauoir, ſans oze, ou argent.

Jeſques

Jesques icy del part le roy ne ore est a dire del respons fait per part le counte, et ceo en deux maners. Car

Primerment ils, supposant le autorittie de Records estre tresgrande, denont a eux vn reasonable exposition. Car il ny ad ascune myne de estayne, de quiure, ou de plumbe, ne de ferre, mes que ascun ore ou argent poet estre treate ou finate hors de ceo (et issint le roy aueroit touts mynes de base mettale reins le realme, que est absurde) denques icy le roy auera ceux prerogatiues, ou le ore et argent que est en le base mettale, excede le value del base mettale, ou al meins suffist al porter touts les expences destre defray entour le acquisition de ceo, et selon cest exposition ils primerment interpretont les parols del records et le maxime de magis digno, puis print exception contre l'informacion. A A.

Le autorittie de Records, come choses faits al importunate request de eux que fueront al roy pur gaigner, et tollerate per les subiectes, eo que ils aueront part del gayne, issint ils vituperant l'effect pur le cause &c.

1. ils denpont tambien.

Come ceo que est collect del charter le roy es al ceux de Cornewale: Car apiert per les parols del charter que lour libertie ne prist original commencement, mes tantsolement confirmation et direction per ceux charters et coment que le roy ad ascun profite. ceo nest en respect de ascun interest en le chose, mes pur porter le charge des officers, stryers, controllers &c. issicome il ad del merchants, car il appoint serchers &c. Mes eux auom stipends de les merchants &c. tamen nont ascun property in lour merchandise &c.

Nota. A. A.

AA. Seiõ l'expoſition auant dit, ils

primerment interpretont

Ceux parolls, aliquid auri vel argenti habeatur, iſſint que ceo aliquid ſoit tant que vaille le charge del Fower et ſercher &c. car autermint ceſt aliquid, n'eſt aliquid, mes ceſt aliquid nihil eſt, et meyns que nihil, Car ex nihil home auera nihil, mes icy de ceſt aliquid il auera perde, ſi pur acquirer le oze de value de 4. d. il ſerra al charge de 5. d.

Et le maxime, quòd omne magis dignum &c. Car ceo eſt intendible ou le choſe pluis digne eſt de aſcun value, ou de pluis value que le baſe choſe eſt. Car de minimis non curat lex, come en action de waſt del 2. d le plaintife nauera iudgement: et ceſt lour interpretation de ceux parols de etre intelligibles lou fuit grand abondance de oze en les mynes eſt confirme per le reſeruation del roy H. 4. S. Nonam libram de argento puro inde proueniente, iſſint que le roy intende grande quantitie de argent de eſtre en les mynes, entant que il n'ad reſerue aſcun part dauter mettall.

puis repzehendont l'infozmation per argument a deſcriptione. Car,

Infozmation pur le roy eſt le declaration le roy, quel doit conteiner certeintie, iſſint que le partie auera perfect ſcyence a quel choſe reſpõdera, et le court de quel choſe il adiudgera.

Mes icy per l'infozmation et le reſpons eſt diſcloſe et confeſſe que le counte ad priſe ſixcentmille pois de owze de quiure conteignant en ſoy oze ou argent troue et fowe en ſon terre demeſne, ſ. ſinquecentmille pois en myne apert puis que le counte fuit ſeignior del ſoile, et centmille pois en myne en ſon ſoile apert deuant que il fuit ſeignior del ſoile: et ne apiert ſi le oze et argent en tyel owze fuit de greinder value que le quyure, ou al meyns d'aſcun value ouſter le charge de acquiſition, et ouſter le baſe mettell, pur ſacher le loyaltie del fayt del counte.

Ergò n'eſt bon Infozmation.

Jeſques

Le roy et royne p. et M. ont en l'une caſe graunt al counte le terre en que le owze fuit, et en lauter caſe le myne per le nome de touts et ſinguler mynes. Car le vaine dont les 500000. poiſ &c. ne fuit myne al temps del date al counte, eo que fuit cloſe, pur ceo paſſera per graunt del ſolle, come part de ſolle. Mes en le ſecond plee le vaine paſſera per nome de mynes, car le vaine fuit patent &c.

Ceſt antecedent del enthymeme eſt pleinement illuſtre per vn ampliſication del obiections que poem eſtre fait del auter parte encounter le counte: et ceſt pzeoccupation eſt deriue del diuers adiuncts incidents al patents le roy et royne QQQ.

Iesques icy del general points oze eſt a dire del ſpeciall, que eſt pzoue del part le counte per vn enthymeme conteynant leffect et graunt le roy et royne; a partibus ad totum.

Ergò tout ceo que eſt conteigne en l'inforz mation perteigne al counte.

De gratia ſua ſpeciali, pretend grand fauour le roy, et ſon bountifulnes vers le patentee.

primerment recites briefement, et oppoſes encoūter les obiections del auter part car les parols,

Ex certa ſcientia pretend pleine intelligence de roy et royne en le matter, et exclude tout ignorance.

Ex mero motu, teſtifie, que il nauoit aſcun ſuyt ne ſuggeſtion de patentee, mes que le primer motion, et tout le ſequel al perfection del patent procede del roy meſme, et pur ceo, le effect del patent ſerra le pluis amplement extende al benefice le patentee.

QQQ.

Les adiuncts incidents al fait et patents ſont,

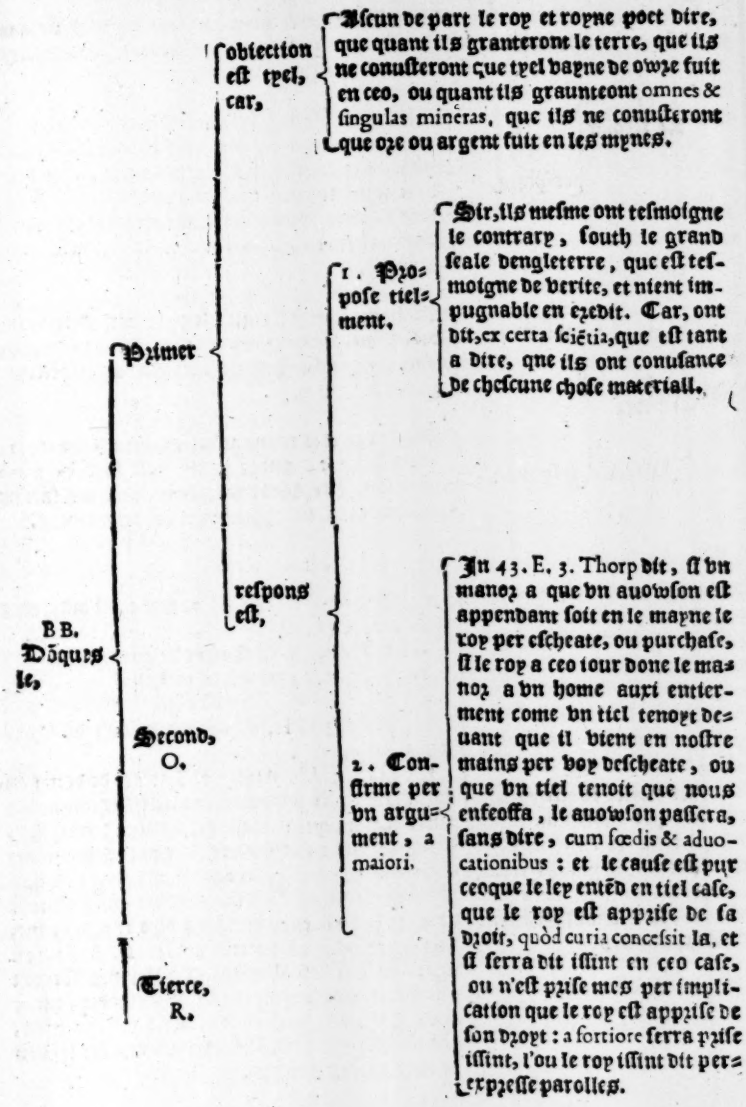
Tam bien per vn diſtinct propoſition de les obiections et ſeueral applying de reſpons, BB,

ſecondement pluis amplifies,

Come de nouel confirmation de ceo per induction de ſpecialls.

SS.

B. B


Aſcun de part le roy et royne poet dire, que quant ils granteront le terre, que ils ne conuſteront que tyel payne de owze fuit en ceo, ou quant ils graunteont omnes & ſingulas mineras, que ils ne conuſteront que oze ou argent fuit en les mynes.
obiection eſt tyel, car,
Sir, ils meſme ont teſmoigne le contrary, ſouth le grand ſeale dengleterre, que eſt teſmoigne de verite, et nient impugnable en ezedit. Car, ont dit, ex certa ſciẽtia, que eſt tant a dire, qne ils ont conuſance de cheſcune choſe materiall.
1. Propoſe tielment.
Primer
reſpons eſt,
In 43. E. 3. Thorp dit, ſi vn manoz a que vn auowſon eſt appendant ſoit en le mayne le roy per eſcheate, ou purchaſe, ſi le roy a ceo iour done le manoz a vn home auxi entierment come vn tiel tenoyt deuant que il vient en noſtre mains per voy deſcheate, ou que vn tiel tenoit que nous enfeoffa, le auowſon paſſera, ſans dire, cum fœdis & aduocationibus: et le cauſe eſt pur ceoque le ley entẽd en tiel caſe, que le roy eſt appziſe de ſa dzoit, quòd curia conceſsit la, et ſi ſerra dit iſſint en ceo caſe, ou n'eſt pziſe mes per implication que le roy eſt appziſe de ſon dzoyt: a fortiore ſerra pziſe iſſint, l'ou le roy iſſint dit per expreſſe parolles.
2. Confirme per vn argument, a maiori.
BB. Dõques le,
Second, O.
Tierce, R.

O. Le

O. Le ſecond
- obiection, — Si aſcune voet dire que les parolls ſerront ſtraitement prise vers le patentee, et beneficialment vers le roy et le royne.
- reſpons, — Sir, ceo patent fuit fait per le roy et royne de gratia ſua ſpeciali: per queux parols ils ſignifiont lour fauour et grace al patentee, et per ceo donont intelligence que les parolles ſerront fauorablement interprete et largemente extende a ſon benefite et commoditie, et eſtraitment vers le royne.

R. Le tierce,
- obiection, — Si home voet dire que le patentee ad done information al roy et royne, et ad fait ſuit de auer grant, et pur ceo cheſcun parol ſerra prise eſtraitement vers luy.
- reſpons: — Sir, le roy et le royne ont teſmoigne le contrary, car ils ont dit, que le graunt eſt fait ex mero motu ſuo, per quel ils voilent, que ceo fait de loure mere motion prendra effect amplement.

S.S. Le nouel confirmation eſt per induction de ſiz ſpecial caſes, ou ceux parols, ex gratia ſpeciali, certa ſcientia, et mero motu, ſont ſemblablement expoundes.

1. Per Huſſey. 9. H. 7. 2. que priſt difference inter patent ex certa ſcientia, et per informamur.
2. 1. H. 7. 13. en charter de pardon.
3. 3. H. 7. 6. en caſe de prior de Norwich.
4. 22. E. 4. 44. en caſe abbe de Waltam.
5. 36. et 37. H. 6. 24. en le caſe de Quatermaynes.
6. 41. E. 3. lib. Aſsiſ. 19. Licence de doner en mortmaine. A ceſt derniere caſe eſt adioigne vn auter reaſon, que ſi le counte nauera les mynes, douques riens paſſera per ceux parolles, omnes & ſingulas mineras &c. et en le generall concluſion eſt dit que le patent fuit fait deuant leſtatute de 4. et 5. de le rayne de les dits roy et royne, fayt touchant lour letters patentes, & ſic, eſt mult ayd per ceſt ſtatute, que patents ſerront beneficialment expound pur le patentee, nient obſtant le defect del very noſmer de les natures, genres et ſoirts de les hereditaments conteynes in tiels letters patents.

Le

Ceo que vient al roy en respect que il est possessior del corone, ne passera per graunt de terre Vide, L. L. L.

Mes le owre de ore et argent appertcigne al roy come il est possessior del corone, et nemy del terre: et en ceo respect il ad le owre en son soile, et en soile d'auter.

Ergò ne passera &c. Car sil alien le soyle, il n'ad per ceo alien ceo point de prerogatiue sa corone en sa soile.

1. Jssint arguont,

Le counsel le roy encoūter ceo, et cōsider deux points

Le primer est, si per le graunt de soile en q. le owre fuit, fait ex gratia speciali, certa scientia & mero motu, le owre de quoure conteignant ore, ou argēt (le bayn de quel ne fuit apert, mes secret) passera al patentee, ou nemy, et semble a eux, que nemy, Car,

2. Jssint, et est respons al dit argumēt sur ceux parolles ex gratia speciali &c.

Car le patent que est issint fait, serra prise fauorablement al patentee: mes ceo est quant al chose expresse en le patent, que les parolles monstre de estre entende de passer, mes ceo ne doet faire auter chose de passer que n'est expresse per parolls de patent destre entende. Car si le roy graunt et entende vn chose, tels parolls ne poyent faire deux choses de passer, come est en le case de Prior, de Wenlocke: Nota natura bre: Fol. 232.

Le second est, si per le graunt fait de touts mynes, oue les parols suidits, si ceo myne de quoure conteignāt ore ou argent passera al patentee ou nemy, et semble a eux que nemy.

P. P. P.

A Logicall Analyſis of the

L. L. L.
Ceſt maior, ſeu propoſitio eſt proue per enumeration de,

- Particuler choſes del prerogatiue que ne paſſont per done le ſoile, come
  - Wayue,
  - Eſtray,
  - Wrecke,
  - Et tyels ſemblables choſes que ſont collaterall a le terre.
- Speciall caſes ceo confirmants dont le
  - Primer eſt de manor deins vn foreſt le roy eſcheate al roy et done per le roy al auter &c.
  - Second eſt le Iguery graūt al heyre de tenant le roy en capite, en quel le clauſe de ſalua al feme ſa Dower per le roy aſsignanda, n'eſt conteigne.
  - Tierce eſt en 31. E. 3. de vn advowſon, deſcend a troys copercenors et Fitz: Quare impedit 1.

P.P.P.

Termes en patentes de roys que comprehendont choses annexe al coron ou prerogatiue royall, ou de grand importance et chose de pluis base degree, serront prise et construe de faire les choses base solement de passer al patentees, et ceo est confirme per special cases. R. R. R.

1. Iſſint. mynes en ceo patent est iſſint. Car sont deux maners de mynes

mynes royall que consist de oze ou argent ou de base mettalles conteignant en soy oze ou argēt.

Base mynes que consist solement de base mettalle et substance s. cupure, estayne, plumbe ferre ou carbones, et neyant en eux oze ou argent.

P P.P.
Quant al secōd point, et le graunt specifie en le second plee, s. de omnibus & singulis mineris, il est tielmēt argue encounter le counte,

Ergò en ceo patent les termes serront construe de faire le base mynes passer, et nemy le royall.

2. 4.4.4.

3. ~~4.4.4.~~

1. En. 22. E. 3. lib. aſſ. 45. En grant al mayſter de S. Lenard de bonis felonum, vbi excipitur treitor.

2. En returne de touts maner de briefes graunt albn, ou ſomons ſont except, car touche le roy.

3. En graunt de fynes, iſſues &c. de ſes tenants; il nauera fynes del home que eſt tenant de luy et del auter.

4. En 3 E 3, Fitz aſſiſe 445. de pount eſchue et deſtre repaire ou generall charter le roy ne excuſe le abbe que fuit charge per ſpeciall cauſe.

5. En 9. H. 6. 56. En graunt le roy de terres en fee oue garrantie, le patentee ne recouera en value ſans expreſſe parols. Car garrantie ad deux effects, l'une a rebutter, et ceo il fra la: lauter a recouer en value, et ceo ne fra en le caſe le roy ſans preciſe parols.

6. En 2. H. 7. 6. En le caſe del counte de Northumberland, lou le graunt le roy des amerciamentes en tiel countie, ne tra'pt les amerciamentes del vicount, coroner, ou auter grand officer pur ſon miſdemeanour, car ceux ſont royall amerciaments.

7. En 43. E. 3. 15. lib. aſſ. En graunt le roy del duchy de Cornewale a ſon eigne fits, ou per generall graunt, vn ſpeciall gard ne paſſa.

R.R.R. Speciall caſes.

8. 5. E. 2. Fitz Quare impedit. 165. ou le roy pur aduowſon en le countie Palantine de Durrham ſuiſt Quare impedit en le comon banck, lou pleder al iuriſdiction del court graunt per le roy, ne excuſe le plaintif.

9. 3. E. 3. Fitz. Graunt: 102. Ou le roy auoyt grant a vn abbe que il puit amortiſer terres al value de 100. ſ. et vncore ne puit purchaſe auowſon tenus del roy en chiefe. Ceſt caſe differ del caſe en 4 lib. aſſ. cite del auter part: car la, le charter le roy noſme le meaſe &c iſſint que ne poet eſtre entende, que il fuit ignorant del tenure, mes icy in 34. E. 3. Le patent eſt generall que il amortiſera terre de value le 100. ſ. &c. Come dit Wray apprentice: mes auters ceo denyent, car le aduouſon fuit hic noſme auxi.

10. 19 Fitz: Graunt: 58. lou licence le roy de approyre l'aduowſon ne puit faire aduowſon tenus del roy deſtre approyre.

11. 1. H. 7 23. et 26. En caſe del ſanctuary, ou le charter le roy generall ne fuiſt ſufficient de faire ſanctuary pur treaſon.

12. 18. H: 8: Brooke Eſtates: 84: et Patents, 104. En le caſe de Bowrchall en Eſſex, l'ou fuit tenus, que nul eſtate de inheritance paſſera, nyent obſtant les parolls de gratia ſpeciali, &c, per queux le roy auoyt grant ceo a vn home et ſes heyres males. Donques les parols en charters le roy enureront al comen entent, et ne deueſteront del roy, choſes de haut degree, ne choſes annexe al coronne in point de prerogatiue.

Car quant a ceo que Shirborne dit, que ſi le counte nauera les mynes royall, il auera ryens per le parolle, Mynes, car le baſe mynes paſſeront per le graunt del terre. Sir, que adonques ? ils ſont parols de ſurpliſage pur mines en meſme le terre, come ſont les parols de graunter gards, maryages, et eſcheates, que ſont pluſors foits miſe en patentes : ou autrement poient prendre effect pur mynes que Henry le counte auoyt en terres dautters.

444.

Secondment ils reſpõd a ceo q; eſt dit del auter part.

Et quant a leſtatute de 4. et 5. P. et M. Barrham dit, que boyer eſt q; l'act fait les letters patents bon nyent obſtant le defect, del very noſmer de le natures, genres, et ſoztes de les hereditamentes : mes ceo ſerra ſolũq; le tenoz de meſme les letters patentes. Et boyer eſt que l'act dit que les letters patentes ſerront expounde pluis beneficialment pur les patentees, mes ſolonques les parols et purpoyt de les letters patents, et ſur ceo ils iſſint conclude.

Si en le parol, terre, en lun caſe le owze royall neſt graunt: ne en le parol, mynes, en lauter caſe : donques, lect nextende mes al baſe owze : et pur ceux ſerra beneficialment expounde en auantage del patentee : car ceo eſt ſolonque le tenoz et purpoyt del patents.

Mes en le parol, terre, en lune caſe &c.

Ergò le act nextend mes al nature del baſe owze &c. car dextender al owze royall, ſerra contrary al purpoyt del patent.

Ceo que eſt incident al cozone inſeparablement, ne poet eſtre graunt ou ſeuere del corone, per expꝛeſſe paroll.

Illint

Mes ceo myne, eſt cant myne royall, eſt incident al cozone inſeparablement, come eſcheate pur treaſon:
Ergò per expꝛeſſe parolles ceo myne ne puit eſtre graunt ou ſeuer del cozone, multo minus ſans expꝛeſſ parolls.

7.7.7.
3. Deux ſeueral opinions de ceux de ceo part ſont recite, car aſcũs arguont

Si le ley ſoit tiel que le roy poet graunter point de ſa pꝛerogatiue a auter, à fortiore il le poet en noſtre caſe, ou le choſe n'eſt que reuenue ou pꝛoffite del cozone, que poet eſtre icy bien leaſe ou demiſe a auter, ſans rent, come pur rent.

Aſcuns encounter ceo, à maiori,

mes le ley eſt tyel: que eſt pꝛoue per deux ſpeciall caſes

Le pꝛimer eſt en 20. E. 3. Fitz. Corone. 12. 5. lou le roy auoyt graunt as cytiſens de Loundres que nul gagera battaile vers eux en appeale et vncoze ceo eſt vn choſe annexe pluys pꝛocheine al pꝛerogatiue le roy, et al perſon le roy.

Le ſecond eſt iſſint: ſi home pꝛiſt les biens le roy tozcioucſment le roy poet pꝛendze ou ſeiſer ſes biens tanque il ad fait reſtitution, come le comen vſe del eſchequer eſt, vncoze le roy graunt ceo al ville de Lynne. 8. R. 2. Fitz. Graunt placito vltimo.

Ergò multo magis il poet en noſtre caſe ꝛc.

Hactenus

Le matter en ley, en les poins.

Generall, et

Pur le primer tils agreont.

Que touts mines d'oze et argēt, en quecunq; soyle, perteigne al roy per prerogatiue, oue libertie de fower, caryer &c.

Que mynes de cuyure, estayne, plūbe, ou ferre sans oze ou argēt, perteigne al proprietor del soyle, car en base mettayle, null prerogatiue.

Et per Baron Freuil, q; ſſl y ad cuiure in vne veyne sans oze, et in fower outer il apiert oze, et petite d'auter mettayle, ceo serra dit myne de cuyure de oze, et nyent de cuyure solement.

Pur le second, fuit agree per Harper, Southcot, et Weston, que ſſ le value de oze ou argēt ne exceede le value del base mettayle, tout affiert al proprietor del terre: mes ſſ excede, tout est al roy, et serra dit Myne Royall.

Speciall,

Fuit agree per touts, que touts mynes Royall, soyent de pure oze ou argent, ou soyent de base mettayle contenant oze ou argent, yoyent per apt parolls estre graunt, car ne sont inseparablement incident al cozone.

Fuit agree per touts forsque les troys auantdits, et per eux auri, ſſ ceux mynes in question sint royall mynes, que les owzes in le primer plē specifie per grant del soile, ne le myne in le second per graunt del mynes, ne passeront al counte per le patent, mes besoigne d'auer speciall parolls, car soile et myne icy serront prise al comon intent pur base mynes &c.

Hactenus des arguments in vtramque partem: oze del opinio des Justices que est cō cernant,

Lact del 4 et 5. P. et M. ne ayde car l'intēt del charter est del mynes base, et nextend al mynes royal, mes per Dyer ſſ null myne soit forsque royall, donq; passeroit, car aliter les parols serroint voyd, mes icy sont auters mynes, ſ. base perq; &c et per meſme le Dyer comēt q; le myne in le primer plē ne fuit apiert al temps del date del patēt, vncore serra dit myne, car de Mineris aliquæ sūt occultæ, & aliquæ apertæ. Catlyn dit, que, les parols ad humilem petitionem eiusdem comitis, diminuont le force des parols, ex gratia speciali &c.

Le pleading et informatiō.

L'informatiō fuit challēg per Mead, quia ne fuit mōstre en quel vill ou Hamel Newlands gist mes fuit respōd, q; ne besoigne, quia n'est en effect forsq; pur trespas, et nul serra recouer forsq; dāmages: contra in action real, car l'a sur recouery, le vicount ne puit luy mettre en seisin sans notice del ville &c.

Le pleading del part le counte fuit vicious: car doit auer mōstre q; le mine contegne forsq; petite oze, ne tant come serra les charges: mes ceo il ne ad fait, quia per le general confession q; il ad oze, serra prise plus beneficialmēt pur le roigne encounter le pleadant, q; il ad assets del oze. Imò touts forsq; les troys auantdits agree que tout serra al roigne, comenq; le base mettayle soit de greinder value, coq; est confesse que ascune oze et argent fuit en ceo.

Pleas

A Logicall Analyſis of

Pleas del coron, ſont q; cõtegne offences faits encounter le Crowne et dignitie le roy: atque hic Stamford agit.

1. del nature des dits offẽces, vbi fait aſcauoir q: les acceſſoryes deuant, ſ. les procurers, ou apres ſ. les receiuors ou fauorers, pari pœna plectentur. Stanf. 40:41:42,43:
Home poet eſtre acceſſory al acceſſory, ſi felonice receaua vn acceſſory, 43. b. et ia, 44:
Licet vn ſtatute que fait aſcune choſe felony, ne parle des procurers et receiuers, vncore ſerront deins l'eſtatute. Offẽces encounter le coron ſont.

2 Des penalties de meſmes offences. QQ.

Felony, que eſt offence del coron, immediate vers vn comon perſon, et cõcerna les

Biens, A. A.

Le perſon, B:B:

Come compaſſer ou imaginer le mort le roy, ſa roigne, lour eigne fits, violare le roigne, ou leigne file le roy nyent mary, ou le feme l'eigne fits le roy; Leuer guerre, adherer as enemies le roy: counterfeiter le grãd ou priuy ſeale, ou ſa money: porter faux money in le realme, coũterfait au money dengleterre, tuer Chauncellor, Treaſuror, Juſtice daſcun banck, en eyre, ou aſſiſes, doyer et terminer, ſeants in lour place, et ce per Leſt. de 25. E. 3. cap: 2: de proditionibus: Item counterfaiſter de priuy ſeignet 1. M. cap: 6: vide leſt: de Eliſ: ca: 11 et 18. Eliſ. ca. 1. de clippers, waſhers, filers, roſiders, et lour abettours, quelconque ſoit le coyne, dummodo ſoit currant icy.

Grand

Treaſon, que eſt offence del Coron immediate encounter l'eſtate le roy e royalme, eſtq;

Vide meſme leſt: de 23. E: 3: ca: 21: que n'eſt que explication del comõ ley. Come, Quant vn ſeruant tua ſon maiſter, feme ſa Baron, home ſeculer ſon prelate: feme ſa myſtres per 12. Aſſ. p. 30. 10. H. 6. 47. cõmẽt que ſoit hors de ſeruice dũmodo eſt de malice conceaue in ſeruice. Fitz: 210. Imo les abbettors hic puniuntur eodẽ modo. Fitz: 216. Itẽ mitter excommengement ſouth bul le pape, 30: Aſſ. 19. Item vſage debruſa le priſon et ameſne priſoners, 1: H: 6: 5:
Vide Stamford, pag: 10. a. b.

Petite

Huc refer miſpriſion, ſ. le concealing de felony ou treaſon come, Juſtice de peace enrolla vn bille denditement nyent troue per le pais: Eſtranger vtter faux money, 3. H. 7. 10. Home trahe ſon eſpee de Ferir Juſtice ſeant en ſon place 22: E. 3: 13: Ferir ou bater vn Juror, in preſence des Juſtices Fitz: Iudg. 174, vn feriſt auter in le ſale de Weſt. Fitz. Cor. 280. Vide leſt 33. H. 8. ca. 12. Pur drawing blood in le meaſon le roy. Item per Britton, Ribaud feriſt vn honorable home, Juſtice arreſta vn que fayt fray deuant luy, et vn auter luy reſcuſſa, 22. E. 3. 13.

A. A.

A, A, Felony in biens est

Destructis et ceo per

In bonis abductis

Del person dascun home hinc surdont,

Robbery scilicet, — Sil prist de mon person licet soit south xii. d. Del lieu, ou ceo fuits prefet. Sil manace de moy occider, ou fist moy turer: Item sil gist en agayst, olim, contra hodie. Hic de seinsors de burses: de queux Britton, 24, b. — Hic de Hue et Crye: Vide lest. de West. cap, 9. an, 3, E, 1. Lest, de Winchest, 13, E, 1: Lest, de. 28, E. 3, ca, 11. Et 27. Eliz. ca: 17,

Pyracy Vide lest. 28, H, 6, ca. 13, Rastall, Tryall, 8.

Vel aliter, & est Larceny si supra xii. d. aliter n'est felony, mes petit Larceny per Stanford, q. atq; hic,

1. Agit in genere de Larceny, vbi, — Primùm explicat naturam rei, & definit Larceny, et mette diuers cases et exemples: Larceny est fraudulenta rei alienæ pluris quam 12. d. valentis tractatio, animo furandi: inuito illo cuius res illa fuerit. Vide pag. 24. 25.

Deinde latius illustrat furtum per les adiuncts — Vide, C. C.

2. De certis specibus furti p statuta. — Recordes emblees, 8. H. 6. ca 12. Prisel del feme inuite, 3. H. 7. cap. 2. Hunting in painted visors pur stealer Venison, et denier ceo 1. H. 7. ca. 7 Seruant prist les biens son maister, except prentises, et ceux que sont deins le age de 18. ans, 2. H. 8. cap. 7. Selling horses into Scotland, que est vn stealing d'eux hors D'englands 23 H. 8. cap 16. & 1. Eliz. cap. 8. Souldier steale away sans licence, 2. E. 6. 2 Multiplication, 5. H. 4. ca. 4. Prisel de castels le roy, towers, ships, armor, ou practise de prender 14. Eliz. cap. 1. Seruant stela les biens son mayster apres sa mort, et ne doet aperer apres proclamations, per lest. de 33. H. 6. ca 1. Escipper lane forsq; a Calice, 18. h. 6. 15

Arsons des measons felonice, ou des Barnes adioinant al measons. Bourglours, que felonice in temps de peace debrusont measons, eglises, murce, towres, ports noctantes, licet riens import. Hue refer Drawlatches, Wastors, Bebyeardes men, que serront arrestes pur suspicion, per lest. 5, E. 3. 14.

C. Illuſtrat Larceny per ſes adiuncts. f.

De queux choſes Larceny ne ſerra, Come de

Poet eſtre de ſes proper biens, come de ploz ſicla biens baylees, & tamen le propertie fuit en luy ſemper, 7.H:6: 45.13.E.4.10.

Larceny le poſſeſſiõ eſtcant in le owner. q. pag 26.

Quiz non poteſt cõmitter Larceny, ſ. quis ne ſerra dit larſon comentque il priſt &c.

Weaſtes ſauages, columbes hors del doucoate, poyſons in le ryuer, car nulluis in bonis. Cor. 185. 18.H.8.2. contre del deburſer del doucoate, et prender les yong pigeons, 18: E:4:8. 10.E.4.15. embleer domeſticall dame, felony. q. ſil ne conuſt deſtre domeſtical, mes ſil priſt mort, ceſt felony.

Item ſerra de perſonel choſes, et nemy de reall; itaq; ſi home ſuccida arbre et priſt, neſt felony, contra ſi fuit ſuccide deuant, Cor. 119. Wor oue charters null felony, 10. E. 4.15. treaſure troue, wreche, del mere, wayf, ſtray priſe, null felony: Cor. 187. 265. car incertum, quis dominus: contrà de bonis capellæ. Endit. 15.

Feme per coertion ou commandement ſon Baron, q. vt nec ioyntment oue ſon baron: car ſerra l'act le baron: mes feme poet, inſcio viro. Item feme ne ſerra acceſſory pur receiuer ſon Baron.

Infant de tender age, come deins 12. ans per Bracton: mes contra hodiè.

Hue pertinet le tractate de Thefteboote, quant home repriſt ſes biens emblees: mes proprement eſt, quant home priſt ſes biens dun laron pur luy fauorer: neſt felony mes punishable per ranſon & impriſonment. Ill 346: tamen, Cor. 353. fuit felony. Biens confiſques, que ſont donez al roy, quia ne ſont claymes per aſcun auter, mes diſauowed del laron. Vide Stanf. 186. diuerſity inter biens confiſques, et biens forfets. Wayf, quant le laron ſur hue & cry & purſuite, pur eaſer luymeſme del portage, wayua les biens ou part d'eux perque les officers le roy, ou auter in droit le roy ſeiſiſt les biens, la le roy eux retiendra come waife, ſi non que le owner fait freſh ſuite, car donq; il reauera ſes biens, iſſint, ſi le laron ne wayua, mes home in droit le roy priſt eux de luy pur ſuſpicion, le owner reauera ſur freſh ſuyte. Null wayfe des biens priſes per treſpas: null wayfe de biẽs d'un qui ad ſanfeconduite in bonis & corpore. 13.E.4.10. Freſhſuyte, quant le party purſue le laron cy haſtyment que il luy apprehend oue le manor, et ſur ceo port ſon appeale et luy conuince per verdit, mes hodiè ſuffit ſil fait ſon deuorr, cõtque ne ſoit priſe deins vn an apres, ou ſoit priſe al ſuite d'un auter, et ſuffiſt conuiction ſans attendre. Mes per ſtat. 21.H.8.ca.11 il auera ſes biens ſur lenditement del felon, imò ſil procure euidence deſtre done, ſans aſcun freſh ſuite, et ſemble, que ſi le ſeruant ſoit robbe, le maiſter poet doner euydence et reauer &c.

B. B. Felony in le person, et ceo vel.

- in parte
  - Sublata come in
    - Couper des langues
    - Duster des oeules,

    Vtrumq; felony per 5, H, 4, cap, 5.

    Hic del Mayme, vbi le pl: poet ellyer de kayze cheſcun pzincipal, ou ſolemēt ceſtuy que luy feruſt, et leſ auters accelloziez. Mayme per Britton, eſt ou aſcune member eſt toll dont home eſt pluſs feble a cōbater, come oyel, mayne, pee, teſte debzuſe, anteriox dents: mes dents molters, oziallez, neeſe, n'eſt mayme, eins blemiſhe, hic lex talionis, eſt lex Dei: mes noſtre ley azgard tout in vammages.
  - Corrupta per carnalem cospulā: hæc copula eſt
    - Contrà naturā, & hæc vel,
      - Confuſio.
        - Specierum, home ou feme oue bzute beaſtes,
        - Sexuum, home oue home, feme oue feme,

        ceo eſt Bugery, et eſt felony per teſt: 25, H, 8, 6, & 5, Eliſ: cap: 17.
      - Inceſt, inter gradus prohibitos.
    - Secundùm naturam,
      - Scortatio inter perſonas ſoluztas,

        Si violence ſoit vſe, dicitur Vape: fuit felony al comon ley: puis, treſpas per teſt: Weſt: 1: cap: 13, tempore E. 1: poſtremò idem rex p Weſt: 2: ca. 34, fiſt ceo felony, comētq; le feme aſſent apzez: vide teſt: de 6, R, 2, cap: 6, ſeuerall puniſhment vers le feme que conſents apzez.
      - Adulteriū, cum altera perſona eſt deſponſata, vel vtraq;.
- In toto, D: D:

A Logicall Analyſis of

Per ſtat. de 3. H. 7. ca. 13. ſi aſcun del hoſtell le roy conſpire le mort le roy, ſeignior de priuy counſayle, Steward, Treaſorer, Controller del hoſtell, ceſt felony.

1. de certen ſtatutes come,

Wilfull poyſoning eſt fayt felony, ſ. eſt fayt wilfull murder, per ſtat: de 2. E. 6. ca 2.

Si Gaylor per dures fayt home approuer, ceſt felony per ſtat, de 14. E. 3. ca. 9.
Vide ſtat. de 1. et 2. P. et M. ca. contrà ægyptios: & 5. Eliſ. cap. 16. que fait conturation felony.
Britton dit, que ſorcerers et miſcreants ſerront arſes.

D.D. In toto, ſ. in occiſione, cùm quis iniuſtè priuatur vita, hic vide Stanf: del coroner et ſon poyer de veyer le corps, a pag. 48. ad. 53. et del vicount, que ſi decolla vn home ou doit luy pender, ceſt felony: Hic agit.

1. Breuiter deſcribit ex Bracton, Homicidium eſt hominis occiſio ab homine facta: ſed iſta deſcriptio nimis eſt ſpecialis, & excludit Deodanda.

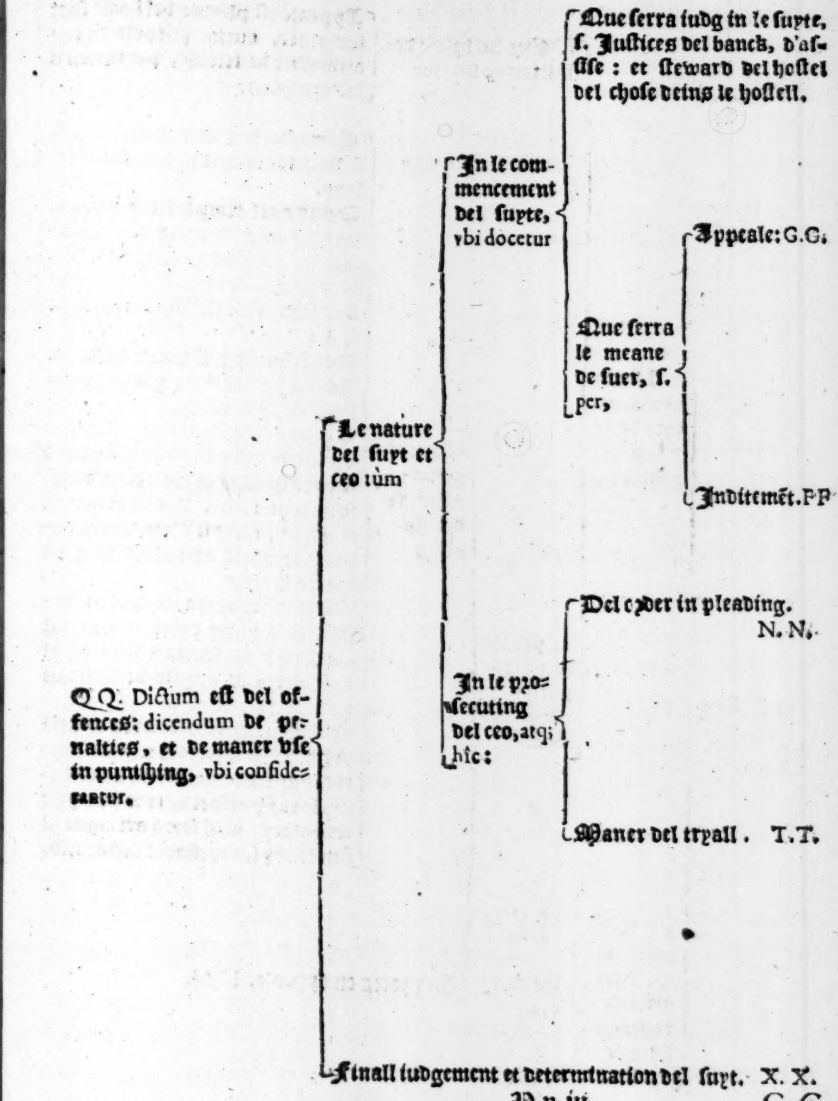
2. del comen ley vbi,

2. Explicatarius per ſpecies, ſ.

Homicidium, manſlaughter, ſance malice prepence: hic ſi aſcun choſe q; n'eſt home, tua home, ſe choſe meſme, e tout q; eſt moue ouc ceo, ſerra forfet come vn Deodand.

hic volũtas olim fuit felony ſans act, contrà hodiè.
Olim le ſtryking d'un feme pregnant, fuit felony, ſi cauſoit abortum, mes hodiè doit eſtre in rerum natura, et deup deins l'an e iour puis le coupe.

murder, auec malice prepence: hic de felo de ſe.


Que ſerra iudg in le ſuyte, ſ. Juſtices del banck, d'aſſiſe : et ſteward del hoſtel del choſe deins le hoſtell.
In le commencement del ſuyte, vbi docetur
Appeale: G.G.
Que ſerra le meane de ſuer, ſ. per,
Inditemẽt. P.P
Le nature del ſuyt et ceo tùm
Del order in pleading. N. N.
In le proſecuting del ceo, atq; hîc:
Maner del tryall. T.T.
QQ. Dictum eſt del offences: dicendum de penalties, et de maner vſe in puniſhing, vbi conſideretur.
Finall iudgement et determination del ſuyt. X. X.

A Logicall Analyſis of

G.G. Appeale atq; hic.

- 1. Le general nature de appeles exponitur.
  - 1. Per vn briefe deſinition ex Brytton.
    - Appeale eſt pleynte del home fayt ſur auter, ouesq; purpoſe de luy attaynder de felony, per motes a ceo ordeynes.
  - 2. per vn large explication contenant
    - Come, vers queux Appeale giſt, ſ. vers touts, que poyent fayre felony.
    - Deins quel temps ſerra port, ſ. deins l'an et iour, in appeale de mort. q. de robbery et Rape.
    - Deins quel county. ſ. ou le felony fuit fayt. Vide leſt. de 2. et 3. E. 6. ca. 24.
    - Certeyne generall adiuncts del appeles
      - Deuãt queux ſ. Coroner. bicount, Juſtice de banck, et gaole deliuery, Juſtice de peace.
      - Du vn auera diuers appeles pur vn felony. Olim licuit auer vn vers le principall, et auter vers l'acceſſory. contra iam. Tamen in ſpeciali caſu licet, come ſi vn in vn county procure auter de robber moy en autercounty. q.
      - Du vn reſpondra al diuers appeales, ſ. home committ ſeuerall robberies as ſeuerall homes, il reſpondra al appele de cheſcune q. in mort ou rape.
      - Si l'appellant furceſſa ſon appele per nonſuyte, releas, retraxit, mariage ayres declaration, ou ſil deup, le roy purſuera, et le party ne ira a larg, mes ſerra arraigne al ſuit le roy ſur meſme le declaratiõ.
- 2. Les particuler properties del ſinguler appeales;
  - Mort. S. S.
  - Robbery 4. 4.
    - Le proces en appeale. M.M.
  - Rape. 8. 8.

M.M. Le

M.M. Le proces in appele ou inditemẽt vt Capias, Exigent, Certiorari &c. 67: hic le principall serra primes attaint, et puis le accessary, 45. hic

1. Le maner del intreating les prisoners quant ils sont in prison, est declare
- Vide le statute de 14. E. 3. ca. 9. contra le crueltie de gaolers.
- Vide lest. West. 1. ca. 13. que notorious et rebellious felons serront en prison fort et dure.

hic de Escapes. V. V. V.

2. Le order,
- del amesner eux al barre,
  - Per Britton, ils serront dischances, disceints, sans coif, en lour pure coat, hors de ferres, ne pœna faciat timidos: tamen p Bracton, propter evasionis periculum interdum compedes gestare possunt. Bract. lib. 2. Britt. fo. 14.
- de lesser a mainprise
  - Per le comẽ ley ils ne serront mainprise—
    - Qui fueront prises pur mort dun home,
    - Per commandement le roy ou ses Justices.
    - ou pur le forest.
  - Per lest. West. 11. cap. 15. ne sont mainp.—
    - Villages devant, foreinors prouors, prises oue le manor, debrusers del prison, notorious larons, appellees des prouors vivãt les prouors nisi soyẽt de bone fame, arsõs, fauxers del money, ou del seale le roy, excommẽge per prier leuesque ou pur apert malueste, ou pur treason.
      - Itaq; ceux que sont indite de Larceny per inquest d'office ou pur leger suspitiõ, ou pur petite Larceny, nisi sint culpable d'auter fayt, sõt mainpernables. sic appellees del prouors puis le mort del prouor.

V. V. V.

A Logicall Analyſis of

V.V.V. Eſcape per leſt. 1 E. 2. de frā gentibus priſonam, rumper le priſon n'eſt felony, ſi nō q; il fuit impriſon pur felony. Mull eſcape deuant arreſt. hic,

1. Explicat le nature des eſcapes, tùm

Per quandam definitionem del priſon, ſ.

Impriſonment n'eſt auter que vn reſtraynt del libertie, itaque ſi home ſoit ſouth arreſt, come in cippes, ou in le poſſeſſion de aſcune home, eſt vn priſon, et leſcaping del ceo, eſt vn debruſer del priſon.

Quin et reſcus eſt rumper del priſon, come ſi home priſt le felon hors de ma poſſeſſion.

per ſpecies

Volun tary.

Quant home arreſt vn, et puis leſſa luy aler hors del boūdes del priſon ou il veut, voluntariò.

Negligent.

Quāt vn eſt arreſt, et eſcape encoūter le volāt le arreſtor, et n'eſt freſhment purſue et repris deuant que le purſuor ad perde le vieu del ceſtuy, que eſcape, Vide Stanf. 33.

Double eſcape, come

Home arreſte, eſcape al egliſe, et puis auri ſua del egliſe: ceo eſt vn doble eſcape.

Eſcape ſans arreſt, come

Home eſt murder in vn ville, per le iour, ou in cytie mured, per le nuict: le murdrer eſcape ſans eſtre priſe, eſt vn eſcape. Vide leſt: de Wincheſter.

Que ſerra charge oue leſcape, ſ. le vicount, garden, ville, Hundred, &c. 34.

Ponit quæ damgeneralia adiuncta.

Coment eſcape ſerra try et aiudge, car priſoners ſont

per matter de record

Quant vn preſent in court eſt committ al priſon per le court: la ſi le garden n'ad luy ſemper priſt, il eſt eſcape ſans auter enquyry niſi ad rea ſonable excuſe.

per matter en fayt

Quant vn eſt arreſt per le vicount, conſtable, ou auter, et eſcape, la il ne reſpondra al eſcape deuant que l'eſcape ſoit preſent deuam Juſtices.

Le penalitie

De voluntary, felony. De negligent, fyne. Si ſoit pur felony, Vn hundred pound. Deuant arreſt, amerciament.

Particuler

Particuler appeales come sont,

Appeale de mort S.S.

- Feme auera appele de mort son Baron, mes de null auter, le feme doit estre sa feme de facto & etiam de iure.
- Item doyt estre sole. Ou le feme poet auer appele, null auter auera ceo. Mes si le mort n'ad feme, son procheine heyre male per le comon ley auera ceo. vide 60.

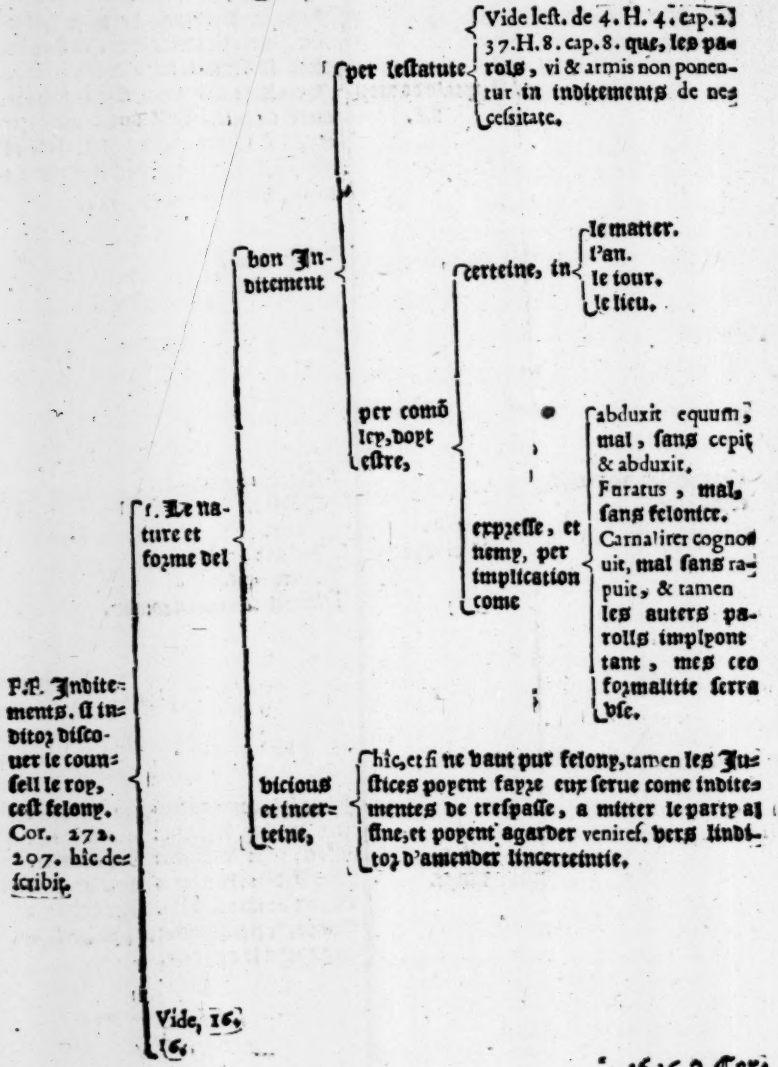
4.4. De Robbery,

- Seruant auera ceo.
- Baylee.
- Feme.
- Infant.
- Executors.
- Merchauntes in comon.

8.8. Rape.

- Feme sole rauy auera appele: feme couert oue son Baron: mes si el assent apres, tunc le Baron sole auera ceo, per lest. de 6. R. 2. ca. 6. mes doyt estre Baron de iure & facto. Pur defaut del Baron, le pere ou auter procheine del sang auera le appeale.

A Logicall Analysis of



16.16.

2. Certeine adiuncts per statutes et autrement, come.

Del statutes dinditementes in Leetes Deins county Palatine, 33. H. 6. cap. 2.
- 31. E. 3. cap. 14.
- West. 2. cap. 13.
- 1. E. 3. cap. 17.
- 1. R. 2. cap. 4.
- 1. E. 4. cap. 3.
- Vide lest. Elis.

Deuant Iust. de peace.
- 11. H. 4. cap. vlt.
- 3. H. 8. cap. 12. contra.
- 3. H. 7. cap. 1.

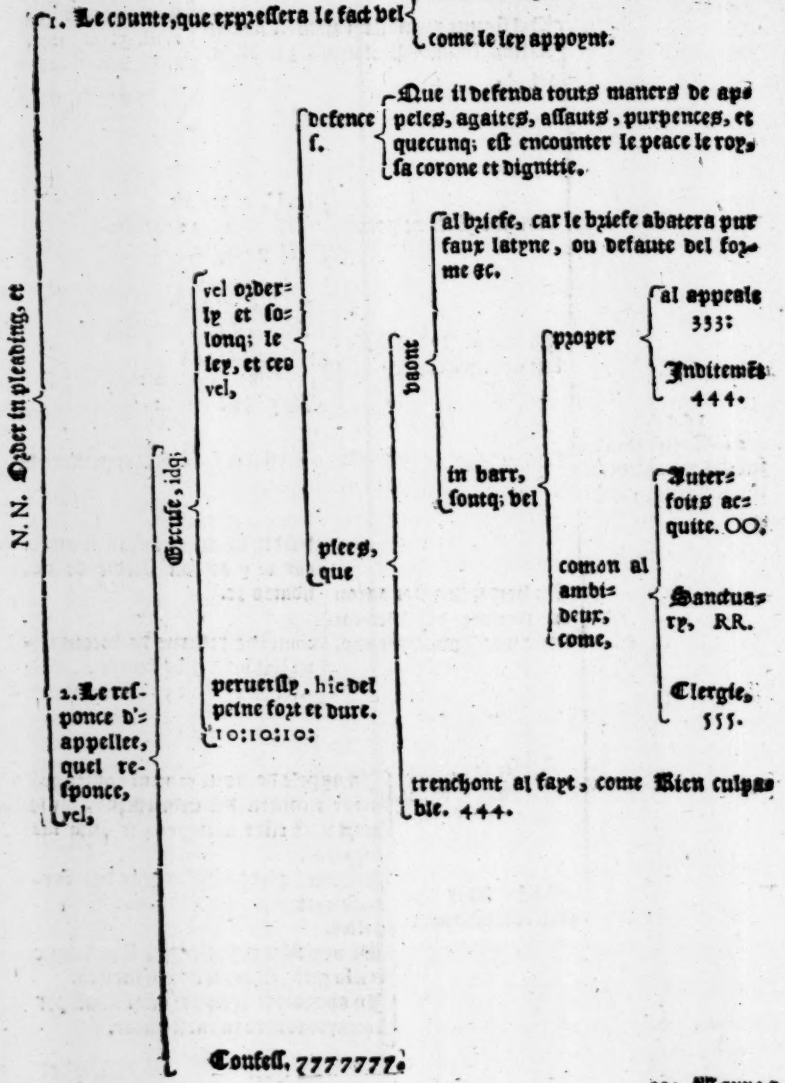
In vn county del chose fait in auter county
- 33. H: 8: cap. 23.
- 1: & 2: P: & M: 10:
- 35: H: 8: cap: 2:
- 33: H: 8: cap: 20:
- 2. & 3: E: 6: 24:

Le forme del inditement d'accessary, s. Que il expressera le maner del felony, &c.

Ou verdit in auter action ou returne del vicount serue pur Inditemēt, car.
- verdit in auter action seruera, car il y ad vn verdit de 12. homes &c.
- contra de returne de vicount licet soit matter de record. Vide lest: de 25: E: 3: ca: 4: de ceo.

differēce inter appele et inditement.
- In appele de mort, mortui nomen ponetur: contra del inditement, car le mort poet estre mangled, et illint incognitus.
- Inditee pledra misnosmer del surnosme, et poet apprower, contra d'appellee.
- Si appellee pria clergy, il ne vnque fra sa purgation, contra d'inditee.
- In appeale le def. poet auer triall per battayle contra in inditement.

A Logicall Analyſis of



333. barres in appele, et hic,

1. ſpecial et particuler barres, come

In appele de mozt, per le feme, a dire: que el eſt maryé arere, que ne fuit vnque accouple in loyal matrimony.

per le heyre:
- Le mozt ad feme in vie.
- Il n'eſt heyre, eins ad eigne frere.
- Il eſt baſtard.
- Ne fuit poꝛt deins l'an et iour.
- Le party n'eſt mozt, eins in vie a tiel lieu &c. ou d'amesner lui in le court: ceux deux ſont comon al feme.

In appele de robbery, adire, que le pl: eſt ſon villen.

In appeale de rape per baron et feme: a dire, ne vnq; accouple, ou a pleder villenage in le pl.

2. generall, come a dire,

Le pl: eſt attaint de felony ou treaſon: eſt moigne: pꝛeſtre, mayme per auter, inſanus, ſurdus, mutus, lazar, ou foole naturall.
Le pl: auterfoits fuit nonſue in appele de meſme le felony apꝛes declaration, ou fiſt vn Retraxit, ou que le def: fuit attaint et acquite al ſuite le pl:
Le pl: ad releas al defendant.

Licet le pl: pleade iſſint in barre, tamen in fauorem vitæ il poet pleader ouſter al felony, et ſon plee ne ſerra dooble, ſinon in le caſe del releas, car per ceo il confeſſe le felony per implication: et quant le def: in appeale de robbery, pleade villenage in le pl: car ſil concluderoit ouſter al felony, le pl: ſerroꝛt enfraunchiſe.

444: Barres all Inditement, come pardon le roy, vide Stanf. a pag: 99. ad 105. diuers ſtatutes des Charters de pardon, et coment ils ſerront pleades.
OO. Auterfoits acquit de meſme le felony, vide Stanf. 105. &c. n'eſt ple iam in appele de mozt per leſt: 3. H. 7. cap. 1 ſic auterfoits conuict ou atteint ſemble bon plee, niſi il debꝛuſoit le pꝛiſon del oꝛdinary et eſcape, car la il ſerra auterfoits arraigne ſur l'inditement.

A Logicall Analyſis of

R.R. Sanctuary doit eſtre pleade al commencement ſur l'arraignement, icy

1. Definit ſanctuary.

Sanctuary eſt vn lieu priuiledge per le prince pur le ſafegard del vie del offendor.

Fuit foundue ſur le le ley de mercy, et ſur le deuotions des princes al certeine lieues.

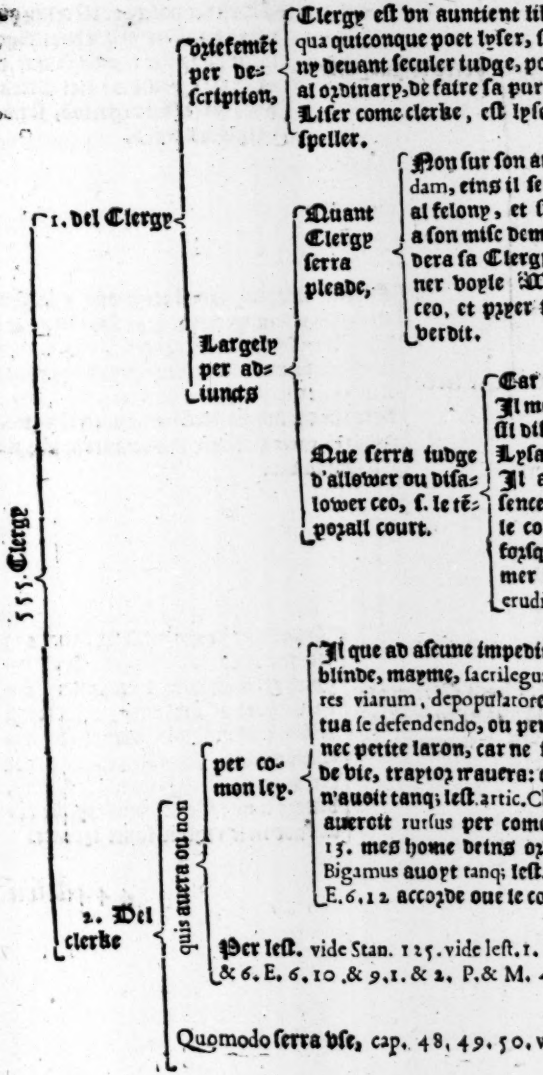
2. Agit del ſanctuary men

Queux auerbt le priuiledge del ſanctuary, queux non, vide pluſors ſtatutes reherſes per luy, 208. &c.

Quomodo tels ſerront vſe et demeſnes. Vide ſtatutes cites 115. &c. huc pertinet Abiuration, que eſt

1. Definit, Abiuration eſt vn ſerement, q; home priſt quant il ad committ aſcun felony et fua al egliſe ou cimitory pur tuition de ſa vie, eſlyant pluſtoſt perpetuall baniſhment hors del realme, que a eſtoyer al ley, et deſtre try del felony.

2. Latius explicata, et reherſe diuers ſtatutes, 117. &c. del viage des abiurors in Itinere &c.


Clergy est vn auntient libertie del sayne eglise qua quiconque poet lyser, si soyt arraine de felony deuant seculer iudge, poet suer destre dismisse al ordinary, de faire sa purgation del dit offence. Liser come clerke, est lyser tout le verse. Licet speller.
Mon sur son arraignement. vt quondam, eins il serra mise al responder al felony, et sil soyt troue culpable a son mise demesne, donq; il demandera sa Clergy; si non que le prisoner voyle Wayuer le benefite del ceo, et pryer son lyeur sans oyer le verdit.
Car il appoynt le verse. Il mett fine sur l'ordinary, sil dist, que Lysa, quant ne Lysa.
Il allowa clergie in absence del ordinary. Issint le court ne vsa l'ordinary forsq; come minister a confirmer lour iudgement, quia est eruditus.
Il que ad aseune impediment destre prest, come blinde, mayme, sacrilegus n'auera, sic insidiatores viarum, depopulatores agrorum. Cestuy que tua se defendendo, ou per misaduenture n'auera, nec petite laron, car ne sont de prendre iudgmēt de vie, traytor n'auera: cestuy que confess felony n'auoit tanq; lest. artic. Cleri. Il que auoit semel, auerait rursus per comon ley tanq; lest. 4. H. 7. 13. mes home deins orders videtur exemptus. Bigamus auoyt tanq; lest. de Lyons, et ore lest. 1. E. 6. 12 accorde oue le comon ley in Bigamy.
Per lest. vide Stan. 125. vide lest. 1. E. 6. 12. 2. & 3. E. 6. 33: 5. & 6. E. 6. 10. & 9. 1. & 2. P. & M. 4.
Quomodo serra vse, cap. 48, 49, 50. vbi, de purgation.
1. del Clergy
Oriefemēt per description,
Quant Clergy serra pleade,
Largely per adiuncts
Que serra iudge d'allower ou disallower ceo, s. le tēpor all court.
555. Clergy
2. Del clerke
quis auera ou non
per comon ley.

HH. Pur-

A Logicall Analyſis of

H H. Purgation fit per inqueſt des Clerks 139. oſtendit.

- Quel Clerke,
  - Ferra ſa purgation: Clerke conuict: et eſt celuy que pria ſon Clergy deuant iudgement done ſur luy del felony, et ad ſa clergy allow: tiel Clerke poet faire ſa purgation, ſi non in ſpeciall caſes.
  - Ne ferra: Clerke attaynt, et eſt celuy que pria ſon clergy apres iudgement, et ad ſon clergy allow, il ne ferra ſon purgation, eoq; quant il eſt condemne del felony per iudgement, il ne poet contrary al iudgment eſtre purge de ceo, le dit iudgmẽt remainant en ſa force, itaq; vel paret pardon, vel demurrat in priſon tout ſa vie.
- Ou, non obſtant Clergy allow, il ne ferra deliuer al ordinary eins remaynera in priſon le roy. Mi aburoy reuyent ſans lycence, et eſteant al barre, demaund ſa Clergy, et ad ceo allow, vncore il ne ferra deliuer al ordinary, eins ferra miſe a priſon le roy tanq; il ad purchace pardon pur ſon reuenue: car comentq; le Clergy excuſe le felony, vncore il ne tolle le contempt de reuenuer in le realme ſance lycence.

Car il pledza primùm ſon ple, et prera allowãce de ceo, et ouſter, quant al felony, Rien culpable.

1. Le nature et forme del ceſt ple.

444. Rien culpable exponit.

Il eſt le plus vſuall plee ſur appele ou Inditement.
Quia trench al fayt, il eſt mule fauour in ley, car il auera ceſt plee puis que il ad plede in abatement ou barre del appeale ou inditement.
Cheſcune que eſt arraigne ſerra enforce a ceſt plee, ſi non que il ad matter de Juſtification ou matter en ley de pleder, come ſil tua le home de neceſſitie ineuitable pur aduancer Juſtice, 13. 14. ou ſil tua ſe defendendo, mes icy le neceſſitie doyt eſtre ineuitable. 13. 14. 15. 16.
Mes in ceſt ple de rien culpable, nauera aſcune counſayle vers le roy ſur inditement (contra inappele) mes pledza in pro per perſon niſi le plee excede ſon comyng, quià cùm ceſt plee va al fayt, et le party meſme conuſt le fayt optimè, il poet mieux reſponder al ceo, et ſil auoyt counſell, ils one lour ſophiſtry turbarent omnia, ou, ſi le party meſme parla, ſon cõſcience luy poet ſtimuler, ſon geſture et countenaunce poyent declarer le verity, ou ſon ſymple parlance &c.

2. Les adiuncts.

Quel peruerſity ceo doyt eſtre,

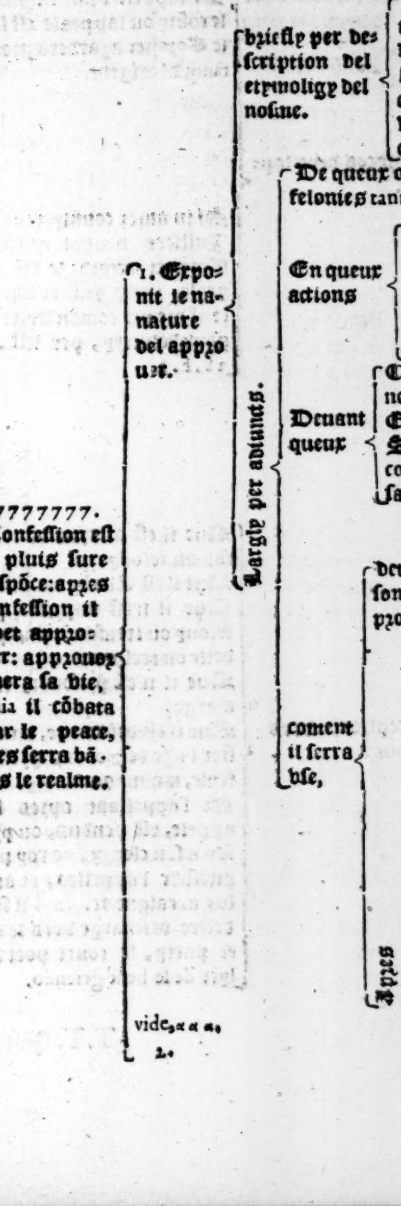
Quant ceſtuy que eſt arraigne ſur felony (car in treaſon nulli tiel matter, vide leſt. Weſt. 1. cap. 12.) riens reſponde, eins eſtoit mute de malice et mal volunte, ou plede tiel matter que neſt aſcun reſponce al felony, ou tiel peruerſe matter que ne directment reſpoigne, ou fayt tiel concluſion ſur ſon plee, que il ne peut auer aſcune tryall.

10. 10. 10.
Peruerſity, vbi il expounde.

Quomodò il ſerra vſe, per peyne fort et dure:

Il ſerra remaunde al priſon dont il vyent, et miſe en vne baſe meaſon eſtoppe, et la girra nude ſur le nude terre ſans aſcune littour, ſtrips, ou auter drapes, et ſans aſcune garniſhe enuyron luy, ſauant vn choſe que couera ſes priuy members, et que il girra ſur ſon doſſe, et que ſon teſte ſoit beſte, et ſes pees eſtrahees, et que vn brache ſoit trahe al vn quarter del meaſon oue vn cord, et lauter brache al auter quarter, et in meſme le maner ſoit fait de ſes tabes: et q; ſur ſon corps ſoyt miſe fer et pier tant come il poet poyter et pluis. et le primer iour enſuant, il auera pane fayt de barly, troys morſells ſans aſcune boyer, et le ſecond iour il boyera troiſ foits, tant ſicome il peut del eawe que eſt procheine al huiſe del priſon, except eawe currant, ſans aſcune pane, et ceo ſerra ſon dyet tang; il ſoyt moyt.

7777777.


briefly per description del etymologye del nosme.
Il peut appzouer, ſ. accuſer autrers qui fueront coadiutozs oue luy de fayze felony.
Hinc dicitur appzouoz, ſ. probator, coque il doyt pzouer, vel per battail, vel per pais, al election l'appellee, ceo que eſt cõtegne en ſon appeale.
Largly per adiuncts.
De queux offences home appzouera, ſ. de ceux felonies tantum queux il ad fayt oue autrers.
En queux actions
In null action, niſi inditement ſoyt action, car in appeale il ne appzouera car ſic il delayeroit le pl. dauer execution de luy, mes il poet conuſter l'inditement, et pzier cozoner, et ſic appzouer.
Deuant queux
Ceux que poyent aſſigner luy Cozoner, come Juſtices de banks, Eyze, Gaole deliuery, cõra de Juſt. de peace, Steward e ſutozs in court Barõ, vicount et ſutozs in le county court, ſans commiſſion.
coment il ſerra diſe,
deuant ſon appzouer.
Il doyt confeſſer et pzier le Cozoner deuant aſcune ple plede. ſil mentu, le court luy tollera de ſon appele. Il ſerra iure d'appeller de touts felonies et treaſons que il ſacha, certen nomber des iours ſerra a luy appoynt, in cheſcune de queux, il doyt appzouer, ou ſerra pendus.
Il auera gages cheſcun iour i. d. del roy. quant le cozoner eſt aſſigne a luy, il ſerra leſſe hozs del pziſon, vt appeller ſans coertion.
Apzes
Quant il ad fayt ſon appeale deuant le Cozoner il rehercera ceo deuant Juſtices, car ils ne voyle: lyer ceo a luy, ei ſil fayle in aſcun paroll que le Cozoner ad recozd, il ſerra pendus, come ſil dit dia...e chyuall pur rouge &c. Car per repugnancy ſerra intende que il mentu.
1. Expoſit le nature del appzouer.
7777777. Confeſſion eſt le pluis ſure reſpõce: apzes confeſſion il poet appzouer: appzouoz auera ſa vie, quia il cõbata pur le peace, mes ſerra bãnis le realme.
vide, a a a, 2.

A Logicall Analyſis of

aaa. 2. Dappellee vbi exponit.

- 1. le proces vers lappellee.
  - Si lappellee ſoit in meſme le county ou lappeale eſt fayt le Coroner agardera proces tanq; al exigent.
  - Si in auter county, tunc les Juſtices deuant queux le Coroner record le dit appeale, come Juſt: de banck, et Eyre per comon ley, et del gaole deliuery, per ſtat. de 28. E. 1.
- ſes exceptions vers l'appellour.
  - Que il eſt attaynt de treaſon ou felony.
  - Que il eſt Clerke conuict.
  - Que il n'eſt impriſon pur felony ou treaſon, eins pur dette ou treſpas.
  - Que il n'eſt priſoner, eins alarge.
  - Que il eſt deins age, ou outer l'age de 70. ans, prelbre, feme, maime &c.
  - Si l'appellant apres ſon appele, eſt pendus, ou priſt ſoy a ſon clergy, le roy poet purſuer l'appellee, et auer luy arraigne &c. Imò il ſoyt deſtre diſcharge vers le roy et party, le court poet luy leer de ſe bene gerendo.

T. T. Maner

T.T. Myer del Tryall.

- In inditement est vel,
  - Droper al peres del realme, s. per 12. pares al meynes,
    - Vide le order, Stanf. fol. 133. & ceo ferra tantùm in Judgements, et nemy in appeles.
  - Comõ as auters, s. per pais, per hões de vicineto ou le felony fuit fait, et ferue al Inditement et appeale. exponit.
    - 1. De quel county le pays vien dra.
      - Vide left. de 2. et 3. E. 6. cap. 24. quant felony eſt fayt en vn county, et le receipt in auter, le tryall in vn, et bon. Vide left. 22. H. 8. cap. 14. & Stanford, pag. 154.
    - 2. per quel proces, s. venire facias: Habeas corpora: Diſtingas, hîc del.
      - Tales, 155:
      - Niſi prius. 156. 157.
      - Challenge.
        - peremptory fans cauſe in fauorem vitæ, al nomber de 35. per comon ley, mes per left: 22. H. 8. cap. 14. tantùm. 20.
        - per cauſe
          - Come, il fuit ſon Inditor &c.
          - Et al array, ſi touts ſont engloys vers eſtranger.
          - Item pur defaut de franck tenement, Vide left. de 27. Eliſ.
      - Euidence, cheſcune ferra admis a doner euidence pur le roy. 163.
      - verdit, eſſay
        - vel generall.
        - Speciall, s. alarge, quant ils doubtont an ſoyt felony.
  - In appeale hîc triall per battayle eſt allowe.
    - Le order del cõbate ex Britton, 41. Vide Stanf. 117.
    - Si appelle pluſors d'un felony, il cõbatera ouc touts, lune apres l'auter: deſcribit.
      - Les counterpleas al battayle, s.
        - Aſcune preſumption, come ſi fuit endite pur ceo, ou priſe oue le manor.
        - Que il eſteant arreſtu, fua, ou debruſa le priſon.
        - Imbecilitie in l'appellant, ſi ſoyt maime, deins 14. ans: ou ouſter 70.
        - Deins order, ou feme.
        - Item priuiledge del perſon, come ſi ſoyt arraigne al ſuite le roy in lappeale. Le def. acquite recouera dammages vers le pl: ou, ſi ne ſoit ſufficient, vers les abettors, Vide Stanf. a pag. 168. vſq; ad 117.

A Logicall Analyſis of

- Del felony, quòd ſuſpendatur per Collum.
- Treaſon
  - Grande,
    - In home, Il ſerra reameſme al lieu dont il vient, et ſerra trahe ſur vne hurdle ieſq; al lieu dexecutiõ, et la deſtre pendus per le colle, et viue deſtre decoupe, et ſes entrayles et pryuy members deſtre exciſes de ſon coyps, et combures deins ſon view, et ſon teſte deſtre abſciſſe, et ſon coyps deſtre dyuyde in quater parts a diſponer al voluntie roy.
    - In feme, deſtre trahe et combure tam in grande treaſõ quàm petite.
    - Si feme ſoit enſeinte de viue enfant, el ſerra ſemel reſpite del execution, mes le iudgement ſerra done mayntenant.
  - Petite: In home, eſt deſtre trahe et pendus. pur miſpriſion il forfetra ſes biens, mes nemy terres forſq; pur vie, et ſerra in perpetuall priſon. q. Vide Stanf. 37. 38. diuers ſeuerall penalties accordant al offences.
- Exponit les ſeuerall iudgmentes, ſ.
- X.X. Finall iudgment, vbi,
- les penalties que enſuõt ceſt Judgemẽt, & implicantur etſi non exprimuntur.
  - Corruption del ſangue vient per atteinder del felony ou treaſon, iſſintq; les infants ne poyent eſtre heires a luy, ne al aſcune auter aunceſtor. Et ſi il fuit noble ou gentleman deuant, il et touts ſes infants ſont deuenus ignobles, et ceſt corruption ne poet eſtre ſalue forſq; per Parlement ſolement.
  - Forfeiture. ωωω.

ωωω. For-

Clerke conuict forfetera ſes biens, comentq; ad fayt ſa purgation, et les iſſues del terre que il ad in ſon droyt, ou in droyt ſa feme, tanq; il ad fayt ſa purgation.

Home forfetera ſon droyt al biens, et choſe in action, come obligation &c.

Item ſi forfetera biens in queux il n'ad aſcune proprietie, come ceo bayle argent hors del bag a rebayler a moy, le baylee eſt attaynt, le roy auera l'argēt, car ne pott eſtre conues &c. quia hors de bag.

Home forfetera ſes Chatteaux ſur fugam fecit comentq; ſoyt acquite del meſme le felony, ou ad ſon charter de pardon pur meſme le felony, ceſt fuer en fayt.

Home forfetera ſes biens ſur exigent agard, ſur vn fuer en ley, comentq; ſoit acquyte del felony.

Biens pur treaſon et felony.

Home port forfeter ſes biens ſans attainter per preſentment apres ſa mort, Come

Felo de ſe.

Home arreſtue fua, et eſt tue in le purſuyte, ou ſi ſoit tue deuāt le arreſt, repugnando, &c.

Home que icua guerre, et eſt tuē in preil.

ω ω ω Forfeiture.

1. que ſerra forfet, ſ.

Quant vn eſt troue culpable del hompeide deuant le Coroner, le Coroner ſeiſera ſes biens et ipuera al ville. Sur fugam fecit troue deuant le Coroner, le vicount ferra in meſme le maner. Mes ſi vn ſoyt indite del meſme le felony, ſes biens ne ſerront remoues hors de ſa meaſon tanq; il ſoyt attaynt, eins ſerront en garde les vicins, et le felon auera viands de ceo. Le ville ſerra charge eue le cuſtody des biens, nill ils poyent monſtre, que auter ad eux. Mes le vicount eſt ſemper chargeable oue les iſſues del terre.

Vide *** 2.

Vide λλλ

2. Quant

Tenant pur vie ou ans ne forfetra forſq; pur ſon terme, ſic pur petite treaſon ou felony, tenant in taple ne forfetra forſq; pur ſa vie, contra in grand treaſon, per ieſt. 5. et 6. E. 6. cap. 11. et per meſme ieſt. home ne forfetra terre que il ad in auter droyt, come in droyt ſa feme, ſa egliſe &c. mes cum terre, les charters del terre ſerront forfets.

*** Terres et droyt del terres ſerra forfet pur treaſon ou felony. mes hic eſt ſtate ſerra conſider, car

Pur treaſon del baró, (grád et petite) le feme perdra ſa dower; mes nemy pur felony, per ieſt. 1. E. 6. cap. 12. 5. & 6. E. 6. cap. 11.

In petyte treaſon ou felony le roy auera l'an, iour, et Waſte des terres que ſont tenus d'auter que de luy, et donq; le ſeigniour auera leſcheate, mes in grand treaſon, le roy auera leſcheate, de quocunq; le terre ſoit tenus.

In terres il relate al temps del act fayt mayntenant, itaque ſi done ou alien ayres le fayt, le relation del attaynder defeatera tout.

**** 2. quant ſerra forfet, Relation del forfeture.

Mes in biens neſt iſſint, car le done de eux inter le felony et lattaynder, eſt bon.

FINIS.